

CITY COUNCIL PROCEEDINGS

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MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, September 12, 2006
Tuesday, 9:09 A.M.

The City Council met in regular session with Mayor Mayans in the Chair. Council Members Brewer, Fearey, Gray, Martz, Schlapp, Skelton; present.

George Kolb, City Manager; Gary Rebenstorf, Director of Law; Karen Sublett, City Clerk; present.

Reverend Rick Cline, Central Church of Christ, gave the invocation.

The pledge of allegiance was participated in by the Council Members, staff, and guests.

The Minutes of the August 22, 2006 meeting were approved 7 to 0.

AWARDS AND PROCLAMATIONS

Service Citations

Distinguished Service Citations.

Mayor Mayans recognized the following people for their service with the City of Wichita and presented them with a plaque: John D. Crane, Jr and Cordell R. Carter.

Proclamations

Proclamations:

Mayor Mayans read aloud a proclamation for the following:

- Sign Up for Scouting Month.
- Rolling Stones Day

Presentation

Presentation by Wichita Wagonmasters to the Wichita Police Department.

Capt. Steve Dillard

Captain Dillard of the Wichita Wagonmasters stated that

PUBLIC AGENDA

Gordon Bakken-Proposal to combine the Indian Center, Cowtown, Art Museum, Botanical Gardens, Exploration Place and Zoo into one Cultural/Amusement Center.

Mr. Bakken was not present.

Bob Pinkstaff-Vietnamese Memorial in Veterans Memorial Park, located in Wichita, Kansas.

Bob Pinkstaff

Mr. Pinkstaff stated that he is a retired Marine and resides at 10208 East Shadybrook and is an active member of the Kansas Korean War Memorial Association and their memorial is located in Veterans Memorial Park in Wichita, Kansas. Stated that he is a life member of the Marine Corps League, Air Capital Detachment and a life member of the VFW, Post 112. Stated that he learned that the Vietnamese Association is seeking a war memorial to be located in Veterans Memorial Park. Stated that this is the second time that he has learned through the Wichita Eagle of this attempt and were not notified or asked by the City of Wichita for their valuable input on this matter. Stated that the Vietnamese Association and community fail to realize the negative significance of a free standing Vietnamese War Memorial in Veterans Memorial Park and they have attempted to purge their memory of the fact that Vietnam is a communist country and flies the flag of communism. Stated that South

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Vietnam is not longer free and the flag that the Vietnamese Association and community would most likely like to fly no longer exists and that is it more a pennant and no longer is meaningful to the free world. Stated that he is strongly opposed to any thought or plan that would allow the construction of a Vietnamese Memorial or any other foreign country memorial in the Veterans Park.

Mike Harter-Vietnamese Memorial to be placed in Veteran's Park.

Mike Harter

Mr. Harter stated that he is a US Navy corpsman attached to the Marines and is here today to represent a large number of veterans and many different veteran's organizations who have expressed their objections to the placing of the Vietnamese Memorial in Veterans Park. Stated that there never has nor will there ever be an intent to include memorials of foreign governments by they past or present. Stated that doing so would open a flood gate of requests from our past allies including Nazi Germany, Communist Italy, Russia, the 16 members of the United Nations we fought with in Korea and many more. Stated he has not doubt that there would be a great outcry from the community if these people requested and were granted space to place memorials in Veterans Park. Stated that allowing the Vietnamese Community to do so would set this precedent.

OmPal S. Chauhan-Property crimes in the northeast neighborhood, Police Beat 44.

OmPal S. Chauhan

Mr. Chauhan stated that he resides at 31 Laurel and is a landlord whose business is remodeling and rental of single-family homes. Stated that he has been in business for the past 30 years and this year has been the worst for crimes against properties. Stated that people break into his houses routinely and there have been occasions where homeless people break in and have parties causing hundreds of dollars in damage. Stated that he has informed the police numerous of times with no positive results. Stated that this is happening to all of the empty homes in the northeast beat 44, whether they are for rent or sale or just temporarily unoccupied while work is being done. Stated that he believes that it is the prime responsibility of the City to provide a safe and secure environment to all of our law-abiding citizens and to treat all of our citizens equally whether they live in the northeast, east or any part of Wichita. Stated that it is his grave concern that the criminal element sees the northeast neighborhood as their territory where they can get away with anything and this is compounded by the residents' feeling of hopelessness and fear that keep them from reporting crimes. Stated that he has several recommendations to deal with the problem: 1) change the perception in the community that this area is a bad neighborhood where the law is not uniformly enforced; 2) enforce laws equally and investigate property crimes aggressively. Stop the domino effect of smaller crimes leading to bigger crimes. When New York cracked down on the petty crimes, the major crimes declined too; 3) do not release all of the parolees into this neighborhood without a reintegration plan including job training and supervision; 4) seek out people addicted to crack cocaine and alcohol for an aggressive treatment program; 5) pass an emergency ordinance concerning sale of copper pipe at salvage yards. Only property owners and licensed plumbers with proper ID should be allowed to sell scrap copper. All transactions should be recorded with the identifying information included; 6) pass an emergency ordinance disallowing anyone from carrying or transporting condensing units without an EPA license. There is a \$10000 EPA fine for releasing Freon into the air, you cannot steal an installed condensing unit without releasing Freon into the air; 7) patrol affected neighborhoods day and night and allow law enforcement authority to stop anyone transporting copper pipe or condensing units or major construction items and demand production of sales receipts or other proof of ownership of the items; and 8) increase police patrol between 10:00 p.m. and 3:00 a.m.

Matthew D. Day-Parking meters in the 400 block of North Topeka.

Mr. Day was not present.

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CONSENT AGENDA

Mayor Mayans

Mayor Mayans requested that item 21 be pulled for discussion.

Motion--
--carried

Mayans moved that the Consent agenda be approved in accordance with the recommended action shown thereon excluding item 21. Motion carried 7 to 0.

BOARD OF BIDS

REPORTS OF THE BOARD OF BIDS AND CONTRACTS DATED AUGUST 28, 2006 AND SEPTEMBER 11, 2006.

Bids were opened September 1 and September 8, 2006, pursuant to advertisements published on:

PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION: Sewers, Paving and Water Mains as per specifications:

Pawnee, Palisade to Broadway (KDOT) (87N-0237-01/472-84283/706932/205398) Traffic is to be maintained during construction using flagpersons and barricades. (District III)

Pavers, Inc. - \$1,641,465.55 (subject to KDOT approval)

Water Distribution System to serve Copper Gate North Addition north of 13th Street North, west of 135th Street West (448-90015/735325/470996) Does not affect existing traffic. (District V)

McCullough Excavation - \$50,850.00

Zimmerly from the west line of Lot 44, Block 1, Woodland Lakes Estates 4th Addition to the east line Lot 56, Block 1, Woodland Lakes Estates 4th Addition; Zimmerly Court serving Lots 45 through 52, Block 1, Woodland Lakes Estates 4th Addition from the south line of Zimmerly to and including the cul-de-sac; Zimmerly Court serving Lots 31 through 34, Block 4, Woodland Lakes Estates 3rd Addition from the north line of Zimmerly to and including the cul-de-sac; Zimmerly Court serving Lots 33 through 43, Block 1, Woodland Lakes Estates 4th Addition from the south line of Zimmerly to and including the cul-de-sac; Sidewalk on one side of Zimmerly from the west line of Lot 44, Block 1, Woodland Lakes Estates 4th Addition to the east line of Lot 56, Block 1, Woodland Lakes Estates 4th Addition to serve Woodland Lakes Estates 3rd & 4th Additions - north of Harry, west of 127th Street East. (472-83718/765989/490106) Does not affect existing traffic. (District II)

Cornejo & Sons Construction - \$249,271.00

Zimmerly from the east line of Lot 43, Block 1, Woodland Lakes Estates 4th Addition to the west line of 127th Street East; Sidewalk on one side of Zimmerly from the east line of Lot 43, Block 1, Woodland Lakes Estates 4th Addition to the west line of 127th Street East to serve Woodland Lakes Estates 3rd & 4th Additions - north of Harry, west of 127th Street East. (472-83719/765978/490093) Does not affect existing traffic. (District II)

Cornejo & Sons Construction - \$108,604.25

Zimmerly Court serving Lots 1 through 11, Block 2, from the north line of Zimmerly to and including the cul-de-sac to serve The Timberlands Addition - north of Harry, west of 127th Street East. (472-84297/765990/490107) Does not affect existing traffic. (District II)

Cornejo & Sons Construction - \$68,759.50

Lateral 344 Four Mile Creek Sewer to serve Sierra Hills Addition - north of Pawnee, east of 127th Street East. (468-83584/744191/480879) Does not affect existing traffic. (District II)

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Utilities Plus - \$55,437.59

Water Distribution System to serve Sierra Hills Addition north of Pawnee, east of 127th Street East (448-90203/735329/470002) Does not affect existing traffic. (District II)

WBW Contractors - \$45,520.00

11th Street Bridge over the Wichita Drainage Canal - south of 13th Street North, west of Hydraulic. (87N-0187-01/472-84396/715710/246126) Bridge to be closed to traffic during construction. (District I)

King Construction - \$817,710.12 (subject to KDOT approval)
2006 Sanitary Sewer Rehabilitation, Phase C - various locations north of MacArthur, east of West Street. (468-84205/620458/666577) Traffic to be maintained during construction using flagpersons & barricades. (Districts II, III, IV, VI)

Utility Maintenance Contractors \$181,981.20

Churchill Cir. (Ph 2) from the south line of Lot 1, Block 2, to the south line of Lot 12, Block 2; Churchill Court, serving Lots 4 through 9, Block 2, from the south line of Churchill Circle to and including the cul-de-sac to serve Reed's Cove 4th Addition - south of 21st Street North, east of 127th Street East. (472-84384-Ph II/765986/490103) Does not affect existing traffic. (District II)

Nowak Construction - \$31,472.94

Motion--

Mayans moved that the contracts be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate, and the and the necessary signatures be authorized. Motion carried 7 to 0.

--carried

PURCHASING DEPARTMENT/IT/IS DEPARTMENT/PRINT SHOP DIVISION: Fine, Carbonless and Tag Paper.

Unisource - \$77,616.00* (Group 1)
\$11,224.50* (Group 2)
\$ 310.00* (Group 3)
\$89,150.50 *(Total net bid)

*Estimate – Contract approved on unit cost basis; refer to attachments.

WATER AND SEWER DEPARTMENT/ SEWAGE TREATMENT DIVISION: Clarifier Weir Covers.

Utility Contractors Inc. - \$239,996.00* (Total Bid)
*Add one unit same unit cost

VARIOUS DEPARTMENTS/VARIOUS DIVISIONS: Furnish And Install Auto Glass.

Discount Auto Glass Inc* - 48% – (Discount from NAGS Price List)
*Award redirected

Motion-

Mayans moved that the contract(s) be awarded as outlined above, same being the lowest and best bid, and the necessary signatures be authorized. Motion carried 7 to 0.

--carried

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CMBS

APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

<u>Renewal</u>	<u>2006</u>	<u>(Consumption on Premises)</u>
Richard D. Orr	L.W. Clapp Municipal Golf Course*	4611 East Harry
<u>Renewal</u>	<u>2006</u>	<u>(Consumption off Premises)</u>
James Smith	Farmers Market, Inc.	2901 North Broadway
<u>New Operator</u>	<u>2006</u>	<u>(Consumption on Premises)</u>
Chris Brannan	1st & 10 BBQ*	3207 South Oliver

*General/Restaurant - 50% or more of gross receipts derived from sale of food.

Motion--
--carried

Mayans moved that the licenses be approved subject to Staff review and approval. Motion carried 7 to 0.

PRELIM ESTS.

PRELIMINARY ESTIMATES:

- a) Pawnee, Washington to Hydraulic (KDOT) (87N-0235-01/472-83858/706869/636115/204335/772512) Traffic to be maintained during construction using flagpersons & barricades. (District III) - \$5,520,130.00
- b) 2006 Sanitary Sewer Reconstruction, Phase 3 - various locations north of Pawnee, between Meridian. (468-84195/620456/666575) Traffic to be maintained during construction using flagpersons & barricades. (Districts III, IV, VI) - \$195,000.00
- c) 2006 CIP Arterial Street Rehabilitation - 135th Street West, Maple to Central. (472-84429/706957/620447/206423/665567) Local traffic will be allowed access during construction unless arrangements are made with the homeowners. (District V) - \$365,000.00
- d) Michelle, from the north line of Tara Falls 3rd Addition to a point 15 feet north of the south line of Tara Falls 3rd Addition, including a temporary turnaround at the south end to serve Tara Falls 3rd Addition - north of Pawnee, west of 127th Street East. (472-84425/766105/490122) Does not affect existing traffic. (District II) - \$57,000.00
- e) Ralph Wulz Tennis Court Reconstruction - north of Central, east of Stackman Drive. (472-84439/785078/602041/396210/862220) Does not affect existing traffic. (District I) - \$609,966.00
- f) Cost of 2005 Contract Maintenance Asphalt Mill & Overlay, & Overlay - south of 13th Street North, west of Seneca. (472-84155/132718/620426) (Districts IV & V). Total Estimated Cost - \$512,439.60

Motion--carried

Mayans moved that the Preliminary Estimates be received and filed. Motion carried 7 to 0.

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PETITION

CONSTRUCT A WATER DISTRIBUTION SYSTEM IN EMERALD BAY ESTATES ADDITION, WEST OF WEST STREET, NORTH OF 21ST STREET. (DISTRICT V)

Agenda Report No. 06-0886

On January 24, 2006, the City Council approved a Petition to construct a water distribution system in Emerald Bay Estates Addition. The developer has submitted a new Petition that expands the improvement district to include additional property that can be served by the waterline. The signatures on the new Petition represent 100% of the improvement district.

The project will serve a new residential development located west of West Street, north of 21st Street.

This project addresses the Efficient Infrastructure goal by providing water service required for new development.

The project budget is unchanged.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of property in the improvement district.

Motion--
--carried

Mayans moved that the Petition be approved; the Resolution adopted and the necessary signatures authorized. Motion carried 7 to 0.

RESOLUTION NO. 06-459

Resolution of findings of advisability and resolution authorizing construction of water distribution system number 448-90161 (west of West Street, north of 21st) in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

STREET CLOSURE

WICHITA HALF-MARATHON, SEPTEMBER 24, 2006, 6:00 A.M. TO 12:00 P.M., SIMS PARK.

Agenda Report No. 06-0887

In accordance with the Community Events Procedure, the event promoter Clark Ensz of Run Wichita is coordinating with Department of Park and Recreation and City of Wichita Staff, subject to final approval by the City Council.

The following street closure request has been submitted:

Wichita Half-Marathon, September 24, 2006 6:00 am – 12:00 pm Sims Park

§ Nims Street, Stackman Drive to Murdock

§ Stackman Drive, Nims Street to Murdock

Client will arrange to remove blockades as necessary to allow emergency vehicle access during entire designated time period. Blockades will be removed immediately upon completion of the event.

Inasmuch as possible, event sponsors are responsible for all costs associated with special events.

Enhance the Quality of Life

Motion--

Mayans moved that the request be approved subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Events Coordinator. Motion carried 7 to 0.

--carried

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STREET CLOSURE **2006 KOMEN WICHITA RACE FOR THE CURE, SEPTEMBER 30, 2006, 7:00 A.M. TO 11:00 A.M.**

Agenda Report No. 06-0888

In accordance with the Community Events Procedure, Wichita Research Offices is coordinating with City of Wichita Staff, subject to final approval by the City Council.

The following street closure request has been submitted:

2006 – Komen Wichita Race for the Cure, September 30, 2006 7:00 am – 11:00 am
§ Douglas Avenue, Rock Road to Whittier Street not including the intersection of Douglas Avenue and Rock Road.

Client will arrange to remove blockades as necessary to allow emergency vehicle access during entire designated time period. Blockades will be removed immediately upon completion of the event.

Inasmuch as possible, event sponsors are responsible for all costs associated with special events.

Enhance the Quality of Life

Motion--

Mayans moved that the request be approved subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Event Coordinator. Motion carried 7 to 0.

--carried

STREET CLOSURE **2ND ANNUAL JUST ABOUT KIDS FOUNDATION 5K & 1 MILE EVENT. OCTOBER 7, 2006 8:00 AM – 10:00 AM.**

Agenda Report No. 06-0889

In accordance with the Community Events Procedure, the event promoter Clark Ensz of Run Wichita is coordinating with Staff, subject to final approval by the City Council.

The following street closure request has been submitted:

2nd Annual Just About Kids Foundation 5K & 1 Mile Event. October 7, 2006 8:00 am – 10:00 am.
§ 13th Street North from Webb Road to Raytheon Park entrance. East bound, curb side lane.
§ Webb Road from Raytheon Park entrance to 13th Street North. North bound, curb side lane.

Client will arrange to remove blockades as necessary to allow emergency vehicle access during entire designated time period. Blockades will be removed immediately upon completion of the event.

Inasmuch as possible, event sponsors are responsible for all costs associated with special events.

Enhance the Quality of Life

Motion--

Mayans moved that the request be approved subject to: (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department. (3) Certificate of Liability Insurance on file with the Community Events Coordinator. Motion carried 7 to 0.

--carried

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STREET CLOSURE **STREET CLOSURE: 135TH STREET, FROM MAPLE TO CENTRAL, (DISTRICT V)**

Agenda Report No. 06-0948

Cornejo and Sons, Inc. have contracted to reconstruct 135th St. West in west Wichita. This project was approved by the City Council on August 1, 2006 and project specifications allowed for a related street closure during the project construction. The existing roadway is an asphalt mat roadway with open ditches. The planned reconstruction will perform milling of the existing surface, mixing with the existing subgrade and lime, grading and compaction of the new subgrade, and the laying of a 24' wide asphalt roadway. The contractor is requesting a five-week closure of this mile section of 135th St. to minimize traffic and related construction safety concerns and reduces the length of time needed for construction. The requested street closure is tentatively scheduled to begin approximately 9:00 a.m. Monday, September 18th and be completed on or before October 23, 2006.

The contractor is proposing to accomplish the street reconstruction in two phases with the drainage culvert near the center of the project being the dividing line of the phases. During the reconstruction north of the drainage culvert the neighborhoods east and west of the work area will need to access their area from Central. In a like manner, when the contractor is reconstructing the section south of the drainage culvert the neighborhoods east and west of the work area will need to access their area from Maple. The two residential locations, which only have access to 135th St., will be allowed access through the work area as required. A one or two day total closure of the mile section of 135th St. may be required when the contractor places the final asphalt surface lift and installs pavement striping. Cornejo and Sons, Inc. are responsible for the placement of the required detour and construction signs and barricades and the notification of area businesses and residents. During the street closure traffic on 135th St. West will be detoured as follows:

Southbound 135th St. traffic will be detoured east on Central to 119th St. West, then south to Maple, then west to return to 135th St. West.

Northbound 135th St. traffic will be detoured east on Maple to 119th St. West, then north to Central, then west to return to 135th St. West.

This project addresses the Efficient Infrastructure goal by improving traffic flow through a major traffic corridor.

Motion--carried Mayans moved that the street closure be approved. Motion carried 7 to 0.

ASSESSMENT ROLLS **PROPOSED ASSESSMENT ROLLS.**

Proposed Assessment Rolls have been prepared for Forty-one (41) paving projects and it is necessary to set a public hearing date. Informal hearing with City personnel will be held October 2, 2006 at 11:00 a.m.

Motion--
--carried Mayans moved that the hearing on the Proposed Assessment Rolls be set for 9:30 a.m., Tuesday, October 17, 2006 and the City Clerk be directed to publish the notices of hearing at least once not less than 10 days prior to the date of the hearing. Motion carried 7 to 0.

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CLAIMS

REPORT ON CLAIMS ALLOWED FOR AUGUST 25, 2006:

<u>Name of Claimant</u>	<u>Amount</u>
Davignon, Amy	\$134.13
Johnson, Elenore	\$150.00
Kansas Gas Service	\$631.64**
Spivey, Ricardo	\$81.00
Wendling, Dave	\$340.00

** Settled for lesser amount than claimed.

Motion--carried

Mayans moved that the file be received. Motion carried 7 to 0.

WATER UTILITY

PROPOSED SETTLEMENT OF APPEAL OF WATER UTILITY SALES AND USE TAX AUDIT.

Agenda Report No. 06-0891

In June and September of 2004, the Kansas Department of Revenue (the "Department") issued sales and use tax assessments, asserting additional taxes, penalties and interest for various sales and purchases of the Water Utility. The City deposited for each assessment, and appealed through the Informal Conference process. By December 2005, the state had returned approximately \$142,227 to the City, and retained approximately \$256,414. The City took the next level of appeal, to the Kansas Board of Tax Appeals ("BOTA"), seeking further reductions in the assessments.

The City's greatest substantive complaints in the case were: 1) that the Department was incorrect in blaming City staff for delays preceding the June 2004 assessment, and lacked the power to issue that assessment on an "estimated" basis under the circumstances; 2) that the Department should follow a BOTA ruling from a previous case, exempting electricity and gas purchases at sites outside City Hall; and, 3) that the Department should not impose penalties on the City for its treatment of various internal charges (i.e., Data Center charges) and fees collected by the utility, given that the proper treatment of these items was still undetermined in litigation from a prior audit until early 2004.

In July 2006, the Department of Revenue determined what the dollar impact would be if they discharged the tax from the June 2004 estimated assessment (about \$67,000), allowed exempt treatment of the electricity and gas at sites outside City Hall, and granted penalty relief. On August 22, 2006, the City received an offer from the Department of Revenue's counsel, proposing to close the case with an additional repayment of \$124,714 to the City, consisting of an \$82,032 reduction in assessed tax, relief from \$20,509 in penalties, and \$22,173 interest on the City's excess deposit. Because the September 12 agenda was the first available agenda to bring the offer to the Council, the time for response has been extended through September 12.

The proposed settlement appears favorable, particularly given that it includes relief from penalties, which is an issue considerably subject to the discretion of the Department of Revenue. In addition, the settlement would cut off further litigation risk and expense. The proposal has been reviewed with the Director and key staff of the Water and Sewer Utility, and they concur in the recommendation to accept it.

The City's deposits in response to the June and September 2004 assessments totaled \$398,691. With the adjustments to date, and the \$124,714 to be paid following the settlement, the aggregate amount returned to the City would be \$266,991, while the Department of Revenue would retain \$131,700 in satisfaction of tax and interest liabilities from the audit.

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The Law Department recommends that the settlement be approved. Following approval of the settlement, the Law Department believes the remaining step would be preparation of a Journal Entry for the two pending BOTA cases relating to the audit, evidencing the overall reductions in the assessments and the partial refund of the City's deposit as the agreed outcome of these cases.

Internal Perspective. Dealing with tax/audit issues is a normal facet of administration and support of the water utility functions.

Motion--
--carried
Mayans moved that the proposed settlement be approved and the Law Department authorized to communicate that action to the Department of Revenue and to negotiate and deliver a suitable Journal Entry reflecting the settlement. Motion carried 7 to 0.

EXPENSE REPORT **EXPENSE FOR SENIOR MANAGEMENT FOR MONTH OF JUNE 2006.**

Motion--carried
Mayans moved that the report be received and filed. Motion carried 7 to 0.

EXPENSE REPORT **EXPENSE FOR SENIOR MANAGEMENT FOR MONTH OF JULY 2006.**

Motion--carried
Mayans moved that the report be received and filed. Motion carried 7 to 0.

HYDROGEOLOGIC **HYDROGEOLOGIC INVESTIGATIONS FOR A HORIZONTAL COLLECTOR WELL-SUPPLEMENTAL.**

Agenda Report No. 06-0892

On October 3, 2000, the City Council authorized projects to begin the development of new water supplies for the City. These projects will develop the water supplies the City's needs through the year 2050. On August 31, 2004, City Council approved a project to expand the Local Wellfield, the use of a design/build project to construct a horizontal collector well and a Contract with Burns & McDonnell Engineering to perform a hydrogeologic study to provide information needed to design a horizontal collector well.

The Integrated Local Water Supply Plan includes utilizing several local water supply sources. The Plan recognizes that not all of the potential water sources will be available for use at the same time and that combinations of sources will be required to meet the City's water supply needs. The Plan includes the construction of additional wells adjacent to the Little Arkansas River to capture above-base flow water from the river and treat it at the water treatment plant. The main components of the concept design include the construction of several horizontal collector wells with pump houses located adjacent to the floodway.

The Engineering Services Contract with Burns & McDonnell was to do a test well that could be used to provide information for the design and construction of the first horizontal collector well. Information collected from the test well indicated that the site selected would not be appropriate for a horizontal collector well. Staff and the engineers believe it prudent to do additional test drillings in the selected area to determine whether the first site is representative of the other potential well sites, or if hydrogeologic conditions are more favorable at other locations. Information will be used to decide if other sites would be appropriate for collector wells, or if alternative water collection methods should be evaluated.

The cost for the drilling and evaluation of four bore holes will not exceed \$31,384. Funding for this project is included in CIP W-549, Water Supply Plan, which has available funding of over \$25 million for 2006. The Supplement Agreement includes the cost to drill and evaluate four additional test borings. It does not include test pumping.

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Ensure efficient infrastructure by providing reliable, compliant and secure utilities. This project will help ensure that the City's water supply needs are met.

The Law Department has approved the Supplemental Agreement as to form.

Motion--
--carried

Mayans moved that the Supplemental Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

EVERGREEN ADD.

RESPREAD ASSESSMENTS, EVERGREEN ADDITION, NORTH OF 21ST STREET NORTH, WEST OF MAIZE. (DISTRICT V)

Agenda Report No. 06-0894

The landowners, Socora Village Company and GMRI, Inc., have submitted an Agreement to respread special assessments within Evergreen Addition.

The land was originally included in an improvement district for a sanitary sewer lateral and a water distribution project. The purpose of the Agreement is to eliminate special assessments on one parcel as part of the agreement of sale.

There is no cost to the City.

The City of Wichita aggressively uses special assessments to lower the cost of residential developments. In doing so, the City's program satisfies the City Council's goal to promote Economic Vitality and Affordable Living. The program supports this goal through partnering with stakeholders in the development community and sustains affordable living by lowering the costs of home ownership.

The Agreement has been approved as to form by the Law Department.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

WATER LINE SUPPLEMENTAL.

WATER LINE ALONG HOOVER, NORTH OF ZOO BOULEVARD. (DISTRICT V)-

Agenda Report No. 06-0895

On June 28, 2002, the City entered into an Agreement with TranSystems for designing a water line along Hoover, north of Zoo Boulevard. The fee was \$9,800. On December 13, 2005, the City Council approved Supplemental No. 1 because the Wichita Water Department requested a revision to the line size along Hoover north from 21st Street. The fee was \$6,100.

TranSystems designed a 36" and 20" water line to serve the area along Hoover, north of Zoo Boulevard. The line was to connect to an existing 36" line installed as part of another project. The record information for the existing 36" line was unclear and different from the pipe and fittings installed. Transystems was asked to perform additional design to revise their project plans to be able to utilize the existing 36" water line. The proposed Supplemental Agreement provides for the additional design services.

Payment to TranSystems will be on a lump sum basis of \$1,000, and will be paid by special assessments and Water Utility.

This project addressed the Efficient Infrastructure goal by extending water service to existing and future development.

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The Supplemental Agreement has been approved as to form by the Law Department.

Motion--
--carried

Mayans moved that the Supplemental Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

KDOT

AGREEMENT WITH THE KANSAS DEPARTMENT OF TRANSPORTATION TO INSTALL RAMP HIGHWAY LIGHTING ALONG K-54. (DISTRICT I)

Agenda Report No. 06-0896

The Kansas Department of Transportation (KDOT) intends to install ramp highway lighting at K-254 and 45th Street/Hillside Street interchange; K-254 and Oliver Street interchange; and K-254 and Woodlawn interchange. Because a section of K-254 is located within the city limits and because the operation and maintenance of K-254 and other federal and state highway connecting links are covered by another agreement between the State and City, it is necessary for the City and KDOT to enter into an agreement for this construction project.

The Agreement authorizes the work to be done within the city limits. It contains a provision whereby the City and KDOT shall mutually agree on how traffic will be handled during construction. K-254 traffic and access through local streets is maintained.

There is no cost to the City associated with this Agreement.

This project addresses the Efficient Infrastructure goal by providing needed lighting of a major highway in north Wichita.

The City/State Agreement has been approved as to form by the Law Department.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

SIERRA HILLS

SIERRA HILLS ADDITION, EAST OF 127TH STREET EAST, NORTH OF PAWNEE. (DISTRICT II)

Agenda Report No. 06-0897

The City Council approved the water, sanitary sewer and paving improvements in Sierra Hills Addition on June 27, 2006.

The proposed Agreement between the City and Ruggles & Bohm, P.A. (R&B) provides for the design of bond-financed improvements consisting of water, sanitary sewer and paving in Sierra Hills Addition. Per Administrative Regulation 1.10, staff recommends that R&B be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to R&B will be on a lump sum basis of \$49,950 and will be paid by special assessments.

This Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of paving improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

The Agreement has been approved as to form by the Law Department.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

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AUBURN HILLS

AUBURN HILLS COMMERCIAL FOURTH ADDITION, EAST OF 135TH STREET WEST, SOUTH OF MAPLE. (DISTRICT V).

Agenda Report No. 06-0898

The City Council approved the water and drainage improvements in Auburn Hills Commercial 4th Addition on November 1, 2005.

The proposed Agreement between the City and MKEC Engineering Consultants, Inc. (MKEC) provides for the design of bond financed improvements consisting of water and drainage in Auburn Hills Commercial 4th Addition. Per Administrative Regulation 1.10, staff recommends that MKEC be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to MKEC will be on a lump sum basis of \$25,700 and will be paid by special assessments.

This Agreement addresses the Efficient Infrastructure goal by providing the engineering design services needed for the construction of paving improvements in a new subdivision. It also addresses the Economic Vitality and Affordable Living goal by providing public improvements in new developments that are vital to Wichita's continued economic growth.

The Agreement has been approved as to form by the Law Department.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

GOVERNMENT ADD

GOVERNMENT ADDITION, GROVE FROM 63RD STREET SOUTH TO 1,350 FEET SOUTH OF 63RD STREET SOUTH. (DISTRICT III)

Agenda Report No. 06-0899

The City Council approved the paving improvements in Government Addition on August 22, 2006.

The proposed Agreement between the City and Certified Engineering Design, P.A. provides for the design of bond-financed improvements consisting of paving in Government Addition. Per Administrative Regulation 1.10, staff recommends that Certified be hired for this work, as this firm provided the preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment to Certified will be on a lump sum basis of \$20,850 and will be paid by special assessments.

This project addresses the Efficient Infrastructure goal by improving vehicular access to an industrial area.

The Agreement has been approved as to form by the Law Department.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

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NUSIANCE ASSESS **NUSIANCE ABATEMENT ASSESSMENTS.**

Agenda Report No. 06-0900

The Department of Environmental Services supports neighborhood maintenance and improvement through abatement of nuisances under Titles 7 and 8 of the City Code. State law and local ordinances allow the City to clean up or mow private property that is in violation of environmental standards after proper notification of the responsible party. A private contractor performs the work, and Environmental Services bills the cost to the property owner.

State law and city ordinances allow placement of the cleanup and mowing costs as a special property tax assessment if the property owner does not pay. Payment has not been received for the nuisance abatements in question, and Environmental Services is requesting permission for the Department of Finance to process the necessary special assessments.

Nuisance abatement and mowing contractors are paid through budgeted appropriations from the City's General Fund. Placement of special assessments provides for reimbursement of these expenditures to the City. Nuisance abatements to be placed on special assessment total \$52,263.71; weed mowing charges total \$50,264.36.

Dynamic Core Area and vibrant Neighborhoods

These assessments are in accordance with Chapter 7.40.050 and 7.40.060 of the City Code.

Motion--
--carried

Mayans moved that the proposed assessments be approved and the ordinances placed on first reading. Motion carried 7 to 0.

ORDINANCE

An Ordinance making a special assessment to pay for the cost of abating certain public health nuisances (lot clean up) under the provision of Section 7.40.050 of the Code of the City of Wichita, Kansas. Be it ordained by the governing body of the City of Wichita, Kansas introduced and under the rules laid over.

ORDINANCE

An Ordinance making a special assessment to pay for the cost of cutting weeds in the City of Wichita, Kansas, introduced and under the rules laid over.

PROP. ACQUIS.

PARTIAL ACQUISITION OF VACANT LAND FOR RIGHT-OF-WAY AT THE SOUTHWEST CORNER OF 119TH STREET WEST AND PAWNEE AVENUE FOR THE PAWNEE ROAD IMPROVEMENT PROJECT FROM 119TH STREET TO MAIZE ROAD. (DISTRICT IV)

Agenda Report No. 06-0901

On January 10, 2006, City Council approved a project to improve Pawnee Avenue from 119th Street West to Maize Road. The project will reconstruct Pawnee Avenue to four through lanes with a median for left turn lanes. In addition, a new storm water sewer will be constructed.

To accommodate the project, right-of-way must be acquired for a turn lane at the southwest corner of Pawnee Avenue at 119th Street. This particular acquisition is triangular and consists of 1,875 square feet. The parcel was appraised at \$1,400, or \$0.75 per square foot. The owner rejected this offer. The owners indicated they were selling a 30'x30' site immediately west of our location to a utility company for \$15 per square foot. The owner has agreed to sell that property for the road project for \$4,700, or \$2.50 square foot. This is comparable to commercial values for land in that area.

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A budget of \$5,050.00 is requested. This includes \$4,700.00 for the acquisition, \$350.00 for closing costs and title insurance. The funding source is General Obligation Bonds and Federal Grants administered by the Kansas Department of Transportation.

The acquisition of this parcel is necessary to ensure efficient infrastructure as this area is rapidly growing.

The Law Department has approved the agreement as to form.

Motion--
--carried

Mayans moved that the agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

PROP. ACQUIS.

PARTIAL ACQUISITION OF VACANT LAND FOR RIGHT-OF-WAY AND DRAINAGE EASEMENT AT THE SOUTHEAST CORNER OF 119TH STREET WEST AND PAWNEE AVENUE FOR THE PAWNEE ROAD IMPROVEMENT PROJECT FROM 119TH STREET TO MAIZE ROAD. (DISTRICT IV)

Agenda Report No. 06-0902

On January 10, 2006, City Council approved a project to improve Pawnee Avenue from 119th Street West to Maize Road. The project will reconstruct Pawnee Avenue to four through lanes with a median for left turn lanes. In addition, a new storm water sewer will be constructed.

To accommodate the project, twenty-five feet must be acquired for right-of-way and a twenty-five foot easement must be acquired as a drainage easement both at the southeast corner of Pawnee Avenue and 119th Street. These particular acquisitions are strip takings consisting of 132,558.4 square feet. The owner has agreed to sell that part of the entire property at its appraised value of \$48,240, or \$0.36 square foot for the land and \$240 for crop damages.

A budget of \$49,000.00 is requested. This includes \$48,240.00 for the acquisition, \$760.00 for closing costs and title insurance. The funding source is General Obligation Bonds and Federal Grants administered by the Kansas Department of Transportation.

The acquisition of this parcel is necessary to ensure efficient infrastructure as this area is rapidly growing.

The Law Department has approved the agreement as to form.

Motion--
--carried

Mayans moved that the agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

PROP. ACQUIS.

ACQUISITION OF LAND IN THE 1300 BLOCK OF NORTH MARKET ALONG THE ABANDONED UNION PACIFIC RAIL CORRIDOR FOR THE MIDTOWN GREENWAY. (DISTRICT VI)

Agenda Report No. 06-0903

In 1999, the Union Pacific Railroad abandoned the rail corridor that runs from Central Avenue and Wichita Street to 15th Street and Broadway. With this abandonment, rights to the corridor reverted to the adjacent property owners on both sides. The City has reviewed the former corridor and decided that it could be developed as a greenway/lineal park connecting Horace Mann, Irving and Park Schools and the bicycle path on Central. In April 2002, the City Council approved \$74,000 in CDBG funding to acquire portions of the abandoned Union Pacific corridor from Central to 15th Street.

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Due to the size and configuration, the tract being acquired is not developable by itself. The purchase price of similar tracts was reviewed to estimate market value. These amounts were offered to the adjacent property owners with several accepting the offers. The owner at 1300 North Market has agreed to sell to the city his portion of the Union Pacific Railroad tract consisting of 1,305 square feet at \$500, or \$0.38 per square foot.

A budget of \$750 is requested. \$500 for the purchase of the land and \$150 for title insurance and closing costs. The funding source is previously approved CDBG funds.

The Midtown Rail Corridor Bike Path will contribute to the enhancement of quality of life.

The Law Department has approved the contract as to form.

Motion--
--carried

Mayans moved that the budget be approved and the necessary the signatures authorized. Motion carried 7 to 0.

PROP. ACQUIS.

PARTIAL ACQUISITION OF 1339 NORTH BROADWAY FOR THE NORTH BROADWAY AND 13TH STREET INTERSECTION IMPROVEMENT PROJECT. (DISTRICT VI)

Agenda Report No. 06-0904

On July 19, 2005, City Council approved a project to improve the intersection of Broadway and 13th Street North. The project will provide left turn lanes at all approaches to the intersection.

To accommodate the project, right-of-way must be acquired from eleven tracts of land. This particular acquisition is the first of the eleven and is a 4 ft. by 25 ft take consisting of 100 square feet. A temporary construction easement of 313 square feet is also required. The parcel was appraised at \$3,400 or \$20 per square foot. The appraised value included \$1,300 as proximity damages, driveway damages and for loss of a tree. This offer was rejected by the owner. The owner has agreed to sell the take for \$4,000, an additional \$600 towards damages to their tree, driveway and proximity to the house. This is a reasonable settlement.

A budget of \$4,750.00 is requested. This includes \$4,000.00 for the acquisition, \$750.00 for closing costs and title insurance. The funding source is General Obligation Bonds and Federal Grants administrated by the Kansas Department of Transportation.

The acquisition of this parcel is necessary to ensure efficient infrastructure as this area is rapidly growing.

The Law Department has approved the agreement as to form.

Motion--
--carried

Mayans moved that the agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

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PROP. ACQUIS.

PARTIAL ACQUISITION OF LAND FOR RIGHT-OF-WAY AT 10720 WEST 29TH STREET NORTH FOR ROADWAY PROJECT. (DISTRICT V)

Agenda Report No. 06-0905

On March 8, 2005, the City Council approved the reconstruction of 29th Street North between Maize Road and 119th Street. The project will improve 29th Street to a four-lane roadway with landscaped medians and left turn lanes into adjoining residential neighborhoods. A new storm water sewer system with curbs and gutters will be installed to eliminate ditches along the roadway. The project requires the partial acquisition of several tracts of land for right-of-way purposes.

The project requires the acquisition of 43,210.72 square feet along the existing road-right-of-way of 10720 West 29th Street North and the undeveloped tract to the east. The subject property is developed with a single-family residence and several out buildings. There will be significant proximity damage to the improvements. The project will also require the removal of some trees, shrubs and site improvements. The land was appraised at \$73,460 (\$1.70 per square foot). The damage to site improvements was valued at \$201,540 for a total value of \$275,000. This amount was offered to the property owner and accepted.

A budget of \$280,000 is requested for the acquisition. This amount includes \$275,000 for the acquisition and \$5,000 for closing costs and title insurance. The funding source is General Obligation Bonds and Federal Grants administrated by the Kansas Department of Transportation.

The acquisition of this parcel is necessary to ensure efficient infrastructure as this area is rapidly growing.

The Law Department has approved the contract as to form.

Motion--
--carried

Mayans moved that the Real Estate Purchase Contract be approved; the budget approved and the necessary signatures authorized. Motion carried 7 to 0.

PROP. ACQUIS.

PARTIAL ACQUISITION OF VACANT LAND FOR RIGHT-OF-WAY AT THE SOUTHWEST CORNER OF MAIZE ROAD AND PAWNEE AVENUE FOR THE PAWNEE ROAD IMPROVEMENT PROJECT FROM 119TH STREET TO MAIZE ROAD. (DISTRICT IV)

Agenda Report No. 06-0906

On January 10, 2006, City Council approved a project to improve Pawnee Avenue from 119th Street West to Maize Road. The project will reconstruct Pawnee Avenue to four through lanes with a median for left turn lanes. In addition, a new storm water sewer will be constructed.

To accommodate the project, right-of-way must be acquired for a turn lane at the southwest corner of Pawnee Avenue at 119th Street. This particular acquisition is a rectangular in shape and consists of 7,753.90 square feet. The appraiser attributed \$12,770 as damages to the row of trees along Pawnee and fence. The owner has agreed to sell that part of the property at its appraised value of \$32,500, or \$2.50 square foot.

A budget of \$33,500.00 is requested. This includes \$32,500.00 for the acquisition, \$1,000.00 for closing costs and title insurance. The funding source is General Obligation Bonds and Federal Grants administrated by the Kansas Department of Transportation.

The acquisition of this parcel is necessary to ensure efficient infrastructure as this area is rapidly growing.

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The Law Department has approved the agreement as to form.

Motion--
--carried

Mayans moved that the agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

LIBRARY MOA

PLANEVIEW COMMUNITY LIBRARY MEMORANDUM OF AGREEMENT. (DISTRICT III)

Agenda Report No. 06-0907

Since the summer of 2003, public library service for the Planeview neighborhood has been delivered through a partnership between Colvin Elementary School and the Wichita Public Library. A memorandum of agreement establishes the framework for shared decision-making concerning the design and delivery of library service. The original agreement was for a twelve-month period with a requirement that the document be reviewed on an annual basis. Staff from the school district and the public library have completed the review process and have reached consensus on a revised agreement to guide operation for the 2006-2007 year.

During 2005, 4,571 items were circulated to the public from the Planeview Community Library, a decline of approximately 15% from the previous year. Closure during the summer months of 2005 as the school building was being remodeled accounted for much of this decrease. Approximately 55% of the use is by adults with the remaining 45% by children. The proposed agreement reduces the weekly schedule by 2.5 hours per week and adds six additional days of closings based upon the school in-service schedule. The Library Board has reviewed the agreement and recommends approval. The agreement was approved by the USD259 School Board on August 28.

The agreement assumes continuation of the City's materials budget for the Planeview Library at \$5000 per year. More than 10,000 city-owned items remain in the shared library collection. Assistance with special programs has been incorporated into the public library's youth outreach service schedule. Costs to transport public library materials to and from the library are incorporated into the Library's branch delivery route. All other operational expenses are the responsibility of the school district.

The agreement helps to address the community's Quality of Life by expanding access to the information and recreation resources of the public library system.

The Law Department has reviewed and approved the agreement as to form.

Motion--
--carried

Mayans moved that the City's participation in the partnership for an additional year be endorsed and the Mayor authorized to sign the memorandum of agreement. Motion carried 7 to 0.

(Item 21) W/S RATES

COST OF SERVICE ANALYSIS FOR WATER AND SEWER RATES AND UPDATE OF PLANT EQUITY FEES.

Agenda Report No. 06-0908

A Cost of Service Analysis (COSA) for Water and Sewer rates was conducted in the early 1990s. The cost elements that go into computation of utility rates change over time, particularly relating to utility assets, plant capacity, usage characteristics and other factors. It is therefore advisable to conduct a detailed analysis of rates to assure that they are both equitable and legally defensible.

Plant equity fees were last recalculated in 2002. Likewise, the factors that go into the calculation of these charges change over time, with significant impacts associated with capital expenditures and increases in plant capacity.

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It is to be stressed that this study focuses on cost of service, not on rate increases. The resulting recommended rates from this study will be revenue neutral and will not be expected to increase or decrease revenues. However, increases in plant equity fees may be proposed as a result of the study.

The Cost of Service Analysis and the Plant Equity Update will total \$70,675. As stated, a cost of service analysis is not expected, or designed, to achieve increases in revenues. Revenues from plant equity fees may be impacted as a result of this study, depending upon what the values are for the recalculation of these fees.

This proposed action would promote achievement of the following goal: Ensure efficient infrastructure with the subcategory of providing reliable, compliant and secure utilities. An equitable, cost-based rate structure and legally defensible plant equity fees contribute to these goals.

The Contract has been approved as to form by the Law Department.

Mayor Mayans

Mayor Mayans asked what is being purchased.

Dave Warren

Director of Water and Sewer explained that cost of service analysis is a combined financial and engineering study, which delineates the various call centers related to the delivery of utility services. Stated that the cost of service analysis was last performed on the City of Wichita's water and sewer rates in the early 1990's and part of the analysis that is included in the cost of service, is to take your various call centers and your administrative costs and assign those costs to the various components of the rate and in Wichita's case we have a base extra capacity rate structure, which is very important on how you assign the peaking costs in the summer months. Stated that the planned equity fee is a fee that the utility charges to recover part of our capital investment that is made for the benefit of future customers and when that new customer connects to our system, we charge an planned equity fee that recovers part of those capital costs, which is used to offset capital costs in the future for the utility and that fee may increase because we have made a number of capital investments since the last time that this fee was updated, which has been more than five years ago but does not affect the rates per say that are charged for the volume of services that you use.

Mayor Mayans

Mayor Mayans questioned paying a consultant to make a presentation to the Council that the Director of Water and Sewer could do himself.

Dave Warren

Director of Water and Sewer stated that if it is the wish of the Council to not have the consultant prepare and present this to the Council, it could be taken out.

Council Member Skelton

Council Member Skelton stated that he has a concern with this issue because it involves another consultant and he was told by Mr. Warren that this is similar to hiring an accountant for this particular study and with regards to consultants overall, he feels that anytime our staff can perform a service just as adequately or for less cost, that is something that should be looked at. Stated that there is a cost for this for approximately \$70,000.00 and asked if this study can be don in-house for less than \$70,.000.00 and would it be cheaper to hire someone temporarily for six months.

Dave Warren

Director of Water and Sewer stated that in order to complete this study in a timely manner, he feels that it is important that we use outside services. Stated that they try to keep internal staff to a minimum and thus, the cost that our citizens have to pay for water and sewer services as a result but if the Council wants to keep the accountants and the other people that you would need on staff all the time to do these kind of studies, then it would obviously raise the cost of those services. Stated that this is something that is done once every 10 years and if you look at that and divide the cost, it is about \$7,000.00 for each year and is not enough to even pay someone to keep them on staff and this is a very inexpensive way of insuring the Council and our customers that the rates that they are being charged are fair and equitable.

Council Member Gray

Council Member Gray stated that he appreciates the effort in trying to save money but does not want to trip over pennies while he is trying to make dollars either.

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Dave Warren

Director of Water and Sewer stated that he does not believe that the Council needs to make a decision on whether or not you have the consultant make this presentation today. Stated that they will have presentations to the governing body before they begin the study so that Council can give them some feedback and as they get to the end of it, they can give Council preliminary information about what they have found out from the consultant and Council can then decide if it wants to make the consultant come down and if they do not, then we will not get charged for those services. Stated as far as staff making the presentation, he is comfortable with staff making the presentation to the governing body and they are knowledgeable regarding on how to make rates and most of the senior staff have had experience in doing budgeting and rate analysis. Stated it gives Council a direct opportunity to speak to the person who is done the work and ask direct questions about the work and about the philosophy that was used in developing the numbers that the Council will see at the end.

Motion--
--carried

Mayans moved that the Contract be approved; the update and recalculation of plant equity fees be approved and the necessary signatures authorized. Motion carried 7 to 0.

SANITARY SEWERS RECONSTRUCTION OF OLD SANITARY SEWERS-TRANSFER OF FUNDS.

Agenda Report No. 06-0909

The Water & Sewer Department allocates funds annually as part of the Capital Improvement Program for the reconstruction of sanitary sewers. The City has rehabilitated and repaired numerous sewer lines this year and has identified additional lines that need to be repaired and are in excess of the sanitary sewer budget.

The City Council approved expenditures for the Four Mile Creek Collection System on June 4, 2002. This project has been completed and has funds remaining that are available for other capital projects. Should improvements be required in the future at the Four Mile Creek Plant, they will be identified and programmed into the next CIP, or incorporated into future sanitary sewer projects.

Four Mile Creek Collection System (CIP S-538) has funds of \$1,690,000 that are not anticipated to be spent during the current capital budget year. The funds are needed and will be utilized in 2006 by Reconstruction of Old Sanitary Sewers (CIP S-4). Funding for the project will be provided by Sewer Utility revenues and reserves, and/or a future revenue bond issue.

The project addresses the goal of Ensuring Efficient Infrastructure by reconstructing or rehabilitating sanitary sewers to help eliminate stoppages, backups, failures and reducing inflow and infiltration into the system. Maintenance costs are reduced, as well as inconvenience to customers.

The Law Department has approved the amended Resolution as to form.

Motion--
--carried

Mayans moved that the budget transfer be approved; the amended Resolution adopted and the necessary signatures authorized. Motion carried 7 to 0.

RESOLUTION NO.06-466

A Resolution amending resolution no. 06-335 pertaining to the reconstruction of old sanitary sewers (s-4) in the city of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the city of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

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1137 N. BROADWAY SURPLUS PROPERTY LOCATED AT 1137 NORTH BROADWAY. (DISTRICT VI)

Agenda Report No. 06-0910

The property under consideration is located at 1137 North Broadway and it is commonly known as the Comley House. Built in 1900, the house has 3,941 square feet in two and one-half stories. The former carriage house has been converted into a one-car garage. The house will be offered with the lot adjacent to the south, providing 21,000 square feet of land. On August 10, 2004 the City Council requested that the property be fully registered as a historic property prior to being formally offered for sale. The house is now listed on the Wichita, Kansas, and national historic registers.

All City departments have been notified and have shown no interest in the property or the adjacent lot. It is felt that to assure full exposure to the market, the property needs to be offered for sale for a period of not less than three months. Also, any redevelopment proposal should conform to the Midtown Neighborhood Plan. Any rehabilitation will follow the Secretary of the Interior's Standards for Rehabilitation.

The City will receive cash consideration for the sale of the property, less any marketing costs. In addition, the sale of this property to a private party will place additional value into the tax base and relieve the City of any maintenance costs.

The sale and redevelopment of this property will support a dynamic core area and vibrant neighborhood.

Motion--
--carried

Mayans moved that the property be declared as surplus and designate it as available for sale to the general public. Motion carried 7 to 0.

740 W. SECOND ST. SURPLUS PROPERTY LOCATED AT 740 WEST SECOND STREET. (DISTRICT IV)

Agenda Report No. 06-0911

The property under consideration is located at 740 West 2nd Street. This is the former property and evidence facility. Built in 1956, the concrete tilt-up building consists of approximately 10,000 square feet of warehouse space and 2,000 square feet of office space. There are three overhead doors and truck wells.

All City departments have been notified and have shown no interest in the property.

The City will receive cash consideration for the sale of the property, less any marketing costs. In addition, the sale of this property to a private party will place additional value into the tax base and relieve the City of any maintenance costs.

The sale and redevelopment of this property will support a dynamic core area and vibrant neighborhood.

Motion--
--carried

Mayans moved that the property be declared as surplus and designate it as available for sale to the general public. Motion carried 7 to 0.

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SWB FRANCHISE

SOUTHWESTERN BELL TELEPHONE FRANCHISE AMENDMENT.

Agenda Report No. 06-0912

The City Council approved a contract franchise with Southwestern Bell Telephone Company on March 25, 2003, effective April 1, 2003. The Franchise grants to Southwestern Bell Telephone the right to use public right-of-way to provide telecommunications services within the City. The contract franchise was for a three-year term, with a renewal for another three years unless notice was given by either party for termination. Southwestern Bell gave notice but requested a one-year renewal rather than termination.

The proposed ordinance amends the contract franchise with Southwestern Bell Telephone L.P. to provide for a one year rather than three year renewal term. All other provisions of the contract remain the same.

Franchise compensation for the use of the right of way is not changed by this amendment.

Promote Economic Vitality and Affordable Living and Ensure Efficient Infrastructure. Approval of this amendment will allow the City to continue working with the utility to provide telecommunication services to businesses and residents, and it will help ensure continued utility compliance with right-of-way requirements.

The ordinance amendment has been reviewed and approved as to form by the Law Department.

Motion--carried

Mayans moved that the ordinance be placed on first reading. Motion carried 7 to 0.

ORDINANCE

An Ordinance of the City of Wichita, Kansas, amending Section 3 of Ordinance no. 45-677, a Contract Franchise with Southwestern Bell Telephone L.P. d/b/a SBC Kansas, a telecommunications local exchange service provider, introduced and under the rules laid over.

TRANSFER OF LAND

TRANSFER OF LAND NEAR 43RD STREET NORTH AND HYDRAULIC AND NEAR 52ND STREET NORTH AND SULLIVAN BETWEEN THE CITY OF WICHITA AND USD 259. (DISTRICT VI)

Agenda Report No. 06-0913

USD 259 has approved plans to rebuild and expand Earhart School at 4401 Arkansas. To accomplish this, USD 259 needs to acquire approximately 3.5 acres of Heller Park located west of the school site. Heller Park contains 32 acres. The land in question is unimproved. They will also utilize a two-acre parcel City property located north of the current school site. This parcel is currently leased to USD 259 and used for their environmental laboratory.

USD 259 has offered to trade approximately 7.5 acres of their land located west of Sullivan Street and south of 53rd Street North in exchange for the City land. The USD 259 parcel was part of Riverview School. The east part of the parcel is developed with a baseball diamond. The west part of the parcel abuts the Little Arkansas River. Approximately 4.75 acres of the tract is readily usable with the remainder being timber, riverbank and river. This parcel is in an area shown to be lacking in open space. The proposed trade was presented to the Park Board on June 12, 2006 and unanimously approved.

There is no financial impact.

Support a dynamic core area and vibrant neighborhoods by improving public schools and providing additional open space for recreational use.

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The Law Department has approved the deeds as to form.

Motion--
--carried

Mayans moved that the Real Estate Exchange Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

RESOLUTION NO. 06-464

A Resolution of findings of advisability and resolution authorizing constructing <<in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

RESOLUTION NO. 06-465

A Resolution of findings of advisability and resolution authorizing constructing <<in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

1212 N. GREEN

DONATION OF VACANT LOT AT 1212 NORTH GREEN. (DISTRICT I)

Agenda Report No. 06-0914

Property Management has been contacted by the owner of a residential lot at 1212 North Green. This 10,800 square foot site has been offered to the City as a donation. The site is presently vacant and generally level; the lot is approximately 80 ft. wide x 135 ft deep. The property is located on the east side of Green Street and in the block north of 11th Street. The neighborhood is predominantly single-family housing though zoning allows for two-family, TF-3.

On August 15, 2006, the Public Housing Department notified Property Management of the need to acquire a vacant lot for the construction of an ADA compliant, two bedroom, single-family residence. Housing has reviewed the lot and feels that it is suitable and will meet their need.

Enhance the quality of life by providing additional ADA affordable housing.

The City will have no cash out-lay for this transaction.

The transfer deed has been approved by the Law Department.

Motion--
--carried

Mayans moved that the donation be approved and the necessary signatures authorized. Motion carried 7 to 0.

HOME CHDO

HOME CHDO OPERATING SUPPORT FUNDING. (DISTRICTS I, II, III, IV, VI)

Agenda Report No. 06-0915

On March 21, 2006, the City Council approved final allocations under the 2006-2007 Consolidated Plan, which included \$86,032 of HOME Investment Partnerships Program (HOME) funds for operational support funding for City-designated Community Housing Development Organizations (CHDOs). HOME regulations require a CHDO to be under contract to receive HOME funding for investment in housing to be developed, sponsored, or owned by the organization, as part of a participating jurisdiction's CHDO set-aside funding, in order to receive operational support funding. Operating expenses are defined as reasonable and necessary costs for the operation of the CHDO. Operating expenses may include salaries, wages, and other employee compensation and benefits. Expenses for education, training, travel, rent, utilities, communications costs, taxes, insurance equipment, materials and supplies are also eligible.

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Funding applications were issued to three City-designated CHDOs receiving CHDO set-aside project development funding from the City's HOME program, with a maximum amount of \$35,500 available to any one CHDO. Funding applications were received from all three organizations: Mennonite Housing Rehabilitation Services, Inc., Power CDC, Inc., and Community Housing Services of Wichita/Sedgwick County.

A staff review panel evaluated the proposals and makes the following recommendations for funding:

Mennonite Housing Rehabilitation Services (MHRS), \$35,500, in order to provide operational support for the organization's 2006 Local Investment Area (LIA) Single-Family Development Projects. Operational support funding is being utilized to partially fund the salary of MHRS' project coordinator. The project coordinator works to identify project sites and potential homebuyers, assists buyers in obtaining permanent financing, and resolves pre-development issues.

During the 2005-2006-program year, MHRS completed construction and re-sale of 20 new homes within the City's LIAs, utilizing CHDO set-aside funding, the Boarded-up HOME Program, and funding provided under the Housing Development Loan Program. MHRS plans to develop a minimum of 12 single-family homes during the 2006-2007-program year, utilizing City HOME funding.

Power CDC, \$35,500, in order to provide operational support for the organization's 2005 and 2006 Single-Family Housing Development Projects in the Northeast Local Investment Area, including the McAdams neighborhood and the Millair Creek subdivision. Operational funding will be utilized to partially fund the salaries of the Executive Director and the Administrative Assistant.

During the 2005-2006-program year, Power CDC completed construction and re-sale of 10 homes utilizing CHDO set-aside funding, the Boarded-up HOME Program, and funding provided under the Housing Development Loan Program. Power CDC plans to develop a minimum of eight single-family homes during the 2006-2007-program year.

Community Housing Services (CHS), \$15,032, in order to provide operational support in connection with the organization's 2005 and 2006 HOME funding allocations for the construction of single-family homes acquired in the Northeast and North Central Local Investment Areas, including the completion of 3 homes in the Northeast Local Investment Area. Operational funding will be utilized by CHS to partially fund the salaries of various staff members involved in HOME-funded housing development projects, and ultimately, the salary of a construction project coordinator.

During the 2005-2006-program year, CHS completed rehabilitation and/or construction and re-sale of three homes utilizing CHDO set-aside funding, and the Boarded-up HOME Program. One fully rehabilitated home was listed for sale as of the end of the 2005-2006-program year. CHS plans to develop a minimum of two single-family homes during the 2006-2007-program year.

Funding for these allocations will come from the 2006-2007 HOME Grant, as previously allocated by the City Council. Funding allocations are based on planned housing production and CHDO set-aside allocations for the 2006-2007-program year.

The proposed allocations will assist City CHDOs in contributing to the City Council goals of Economic Vitality and Affordable Living, Quality of Life, and Dynamic Core Area and Vibrant Neighborhoods.

Funding agreements have been approved as to form by the City Law Department.

Motion--
--carried

Mayans moved that the recommended allocations and the funding agreements be approved and the necessary signatures authorized. Motion carried 7 to 0.

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**GREENWICH IMP. GREENWICH ROAD IMPROVEMENT, BETWEEN CENTRAL AND 13TH STREET.
(DISTRICT II)**

Agenda Report No.06-0916

The 2005-2014 Capital Improvement Program adopted by the City Council includes a project to improve Greenwich, between Central and 13th Street. On July 14, 2006, the Staff Screening and Selection Committee selected Professional Engineering Consultants (PEC) to prepare construction plans for the project.

Greenwich, north of Central, is rapidly developing into a major commercial corridor. The existing two-lane roadway is becoming obsolete.

The estimated design project cost is \$160,000. The funding source is General Obligation Bonds. The design fee for PEC's services is \$140,800.

This project addresses the Efficient Infrastructure goal by improving a vital arterial street. It also addresses the Economic Vitality and Affordable Living goal by providing a public improvement necessary for the private sector's development of the surrounding area.

The Law Department has approved the authorizing Ordinance and agreement as to legal form.

Motion--
--carried

Mayans moved that the design project and design agreement be approved; the Ordinance placed on First Reading, and the signing of State/Federal agreements as required authorized. Motion carried 7 to 0.

ORDINANCE

An Ordinance declaring Greenwich Road, between Central and 13th Street North (472-84435) to be a main trafficway Within the City of Wichita Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of the same, introduced and under the rules laid over.

HUDGRANT HUD ECONOMIC DEVELOPMENT INITIATIVE GRANT, VETERAN'S MEMORIAL PARK. (DISTRICT VI)

Agenda Report No. 06-0917

The John S. Stevens Memorial was dedicated in 1977 and was conveyed to the Board of Park Commissioners by the City of Wichita in 1980. In recent years, the memorial has shown signs of aging and in need of replacement with newer technology that will provide greater durability and vandal resistance. In 2003, chairperson Phil Blake and others formed Operation Ensign, a non-for-profit 501c3 corporation, to dedicate its efforts to the restoration of the Stevens Memorial and other veteran memorials located in the city. Since the fall of 2003, Operation Ensign has worked actively with federal officials, to lobby for the need to provide funding to rehabilitate Stevens Memorial. On November 23rd, 2004, Congress announced that the U.S. Department of Housing and Urban Development awarded two Economic Development Initiative Special Project grants for Project Ensign and the City of Wichita. The purpose of these grants is to renovate and restore the Stevens Memorial located within Veteran's Park.

On June 28, 2005, the City Council approved the submission of the Economic Development Initiative grant application to the U.S. Department of Housing and Urban Development.

Two grants were awarded for the Veterans Memorial Park. Project Ensign (Operation Ensign) was awarded \$300,000 and the City of Wichita will receive \$248,000. Both grants are for Veterans Memorial park with funds having a 5-year requirement for funding to be spent.

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With these funds, the City will direct funding to restore the lanyards and cabinet boxes for the flagpoles. Additional funding will be used to make improvements to the wall, which is necessary to improve visibility and park safety as well as other restoration efforts that may be required to bring the project to a satisfactory condition.

The City of Wichita grant totals \$248,000 and does not require matching funds.

Motion--
--carried

Mayans moved that the grant be approved and the signatures for HUD Economic Development Initiative grant award authorized and the necessary signatures authorized. Motion carried 7 to 0.

ORDINANCES

SECOND READING ORDINANCES:

(First read August 22, 2006)

- a) Property acquisition - permanent easements by eminent domain for Main 19, Four Mile Creek Sewer Project. (District II)

ORDINANCE NO. 47-113

An Ordinance providing for the acquisition by eminent domain of certain private property, easements and right-of-way therein, for the purpose of acquiring real property for the construction and improvement of sanitary sewer to serve an area north of 13th Street North and west of 159th Street east in Sedgwick County, Kansas; designating the lands required for such purposes and directing the city attorney to file a petition in the District Court of Sedgwick County, Kansas, for acquisition of the lands and easements therein taken and providing for payment of the cost thereof, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

- b) ZON2006-26-southwest corner of 47th Street South and Broadway. (District IV)

ORDINANCE NO. 47-114

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans. (ZON2006-26)

(First read May 9, 2006)

- c) Gilbert & Mosley TIF Extension.

ORDINANCE NO. 47-115

An Ordinance extending the completion date of the Redevelopment Project for the Gilbert and Mosley Redevelopment District as adopted in City of Wichita Ordinance No. 41-446 and No. 41-461, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

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UNFINISHED BUSINESS

NE BASEBALL

DEVELOPMENT AGREEMENT FOR THE NORTHEAST BASEBALL COMPLEX. (DISTRICT II)

Doug Kupper

Director of Parks and Recreation reviewed the item.

(Council Member Brewer left the bench)

Agenda Report No. 06-0918

The City of Wichita purchased 60 acres near 29th Street North and Greenwich Road, adjacent to the Stryker Soccer Complex in 1999. The intended purpose of the purchase was to construct a new baseball complex. In 2001, the CIP had \$1 million allocated for design and construction of the new baseball complex. The design phase determined that either additional CIP funding was needed or a partnership with a private entity was needed to develop the baseball complex. In 2003, the City received its only Request for Proposal (RFP) response from Central Plains Youth Sports, Inc. (CPYS), a Kansas not-for-profit corporation. The City Council approved the selection of CPYS as the preferred developer on April 11, 2006 and authorized the creation of a development agreement to be approved at a later date.

The project will consist of several phases with the understanding that CPYS will develop seventeen (17) youth baseball/softball fields within 8 years of the signed and approved agreement.

The approved CIP has approximately \$818,650 remaining, after design costs, from the originally approved \$1 million, and the Development Agreement commits this funding to the project. All further costs of construction are to be paid by CPYS, but it is a recently formed entity and is relying on private donations for this purpose. There will be no surety or completion guarantee for the lien-free completion of the project, and if CPYS is unsuccessful in raising the necessary funds, the City will have to consider alternatives at a future time. If CPYS completes the first six fields in the time provided under the Development Agreement, the City is to lease the project to CPYS for a 30-year term and up to three 15-year extensions. The rent for the first 20 years will be \$1 per year, and rent is to be \$12,000 per year thereafter. Under the lease, CPYS will control the property and will retain and set all fees and revenues from its operation (subject only to potential City controls on excessive league entry fees).

This agreement will impact the Quality of Life Goal. In developing a baseball/softball complex in this area of the city, citizens will have an opportunity to participate in high quality competitive games, leagues and tournaments.

Charter Ordinance No. 177 requires a public hearing and 2/3 vote of the City Council to approve development agreements of this type. Because CPYS could not furnish a completion surety, approval of this project also entails an amendment to Charter Ordinance No. 177 to remove the required completion surety for this project only. The Charter Ordinance amendment also requires a 2/3 vote and the other formalities required for Charter Ordinances. Without a completion surety in place, any labor or material bills that CPYS is unable to pay may attach as liens on the property. In such an event, the City could be forced to choose between losing the property or finding additional funds to discharge the liens.

(Council Member Fearey momentarily absent)

Mayor Mayans

Mayor Mayans asked if the unknown cost of the water has been budgeted for in the park budget.

Doug Kupper

Director of Parks and Recreation stated that they feel that in their maintenance budget they can absorb the little that is there and by the time they get the field started and have the turf down sometime in the Spring of 2007, they will be back into their revised budget process and would be starting to look at what their expenses would be and if necessary would request any additions to their budget under those regards and they progress through the budget processes and as they add the fields in the next phases.

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- Mayor Mayans Mayor Mayans pointed out that in the agenda report under operation and management, it states that the developer may expand the facility to include other athletic activities for citizens of all ages. Asked if it is indicated what that would be.
- Doug Kupper Director of Parks and Recreation explained that the possibility of instead of playing baseball on a baseball diamond, it could be converted to a softball game with minor changes such as removal of the mound, etc. Stated that the softball fields that they have planned, they could put a mound in and play baseball on a softball diamond. Stated that there is an opportunity for them to have clinics for football and soccer. Stated that they could have other opportunities on that real estate to offer clinics and learning labs for other sports.
- Mayor Mayans Mayor Mayans had questions about the surety that there will be no surety of completion guarantee for the lien free completion of the project. Asked if there are liens against the developer and the project that they are doing and they walk away, does the City pay that.
- Doug Kupper Director of Parks and Recreation asked Gary Rebenstorf to address that.
- Gary Rebenstorf Director of Law stated yes that the obligation would fall to the City, which is one of the risks that is involved with this project.
- Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard and no one appeared.
- Motion-- Schlapp moved that the public hearing be closed; the Ordinance approving the Development Agreement placed on first reading; the necessary signatures authorized and the amendment to Charter Ordinance No. 177 authorized. Motion carried 5 to 1, (Mayor, No; Brewer, absent).
- carried

ORDINANCE

An Ordinance of the City of Wichita, Kansas (the "City"), approving and authorizing the execution of a development agreement between the City and Central Plains Youth Sports, Inc., pursuant to Charter Ordinance No. 177, introduced and under the rules laid over.

CHARTER ORDINANCE

A Charter Ordinance amending Section 1 of Charter Ordinance No. 177 of the City of Wichita, Kansas, pertaining to exemptions from bid requirements, and repealing the original of said Section, introduced and under the rules laid over.

RODEOS

REVISIT MORATORIUM ON RODEOS.

Gary Rebenstorf Director of Law reviewed the item.

Agenda Report No. 06-0947

On May 2, 2006, the City Council approved a moratorium on all rodeo events. The moratorium is effective until November 2, 2006. During the moratorium, the City Council directed staff to initiate zoning and licensing changes to allow indoor rodeo events with certain lot size restrictions and to adopt licensing ordinances which more effectively regulate the use of animals and provide for animal safety for these events.

The City Council has asked that the moratorium be amended to allow indoor rodeo events, which are fully contained in a permanent fully enclosed building during the remaining months of the moratorium. Such indoor rodeos shall be subject to all existing ordinances regulating noise, odor, animal maintenance or other nuisance.

Provide a Safe and Secure Community.

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The City has the authority to amend the moratorium on the processing and issuance of licenses. The Resolution has been reviewed and approved as to form by the Law Department.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--
--carried

Gray moved that the resolution amending Resolution No. 06-204 regarding the Moratorium on the issuance of Rodeo licenses be adopted. Motion carried 6 to 0, (Brewer absent).

RESOLUTION NO.06-467

A Resolution by the governing body of the City of Wichita, amending Resolution No.06-204 regarding a moratorium on the processing of new requests for the licensing and locating of rodeos in the City of Wichita, Kansas, presented. Gray moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Fearey, Gray, Martz, Schlapp, Skelton, and Mayans, (Brewer absent).

NEW BUSINESS

CUSTOM CUPBOARD PUBLIC HEARING AND TAX EXEMPTION REQUEST, CUSTOM CUPBOARDS, INC. (DISTRICT IV)

Allen Bell

Economic Development Administrator reviewed the item.

(Council Member Schlapp momentarily absent)

Agenda Report No. 06-0919

On July 20, 2004, City Council approved a five-plus-five year 97.5% ad valorem tax exemption to Custom Cupboards, Inc. (Custom Cupboards) for an expansion that included construction of a building addition and purchase of new equipment. On May 3, 2005, City Council also approved a 75% five-plus-five year tax exemption on a building addition and new manufacturing equipment.

Custom Cupboards has sustained consistent growth in manufacturing custom built cabinetry. Custom Cupboards has now expanded its manufacturing capacity to include purchase of new machinery and equipment, for a total project cost of \$570,462. Custom Cupboards is requesting approval of an Economic Development Tax Exemption on the building addition and new machinery and equipment in conjunction with their expansion.

Custom Cupboards located at 3738 S. Norman in southwest Wichita, was locally formed in 1981. Custom Cupboards is a leader in high quality, custom-built cabinetry for residential homes and commercial offices. Custom Cupboards, Inc. has two manufacturing facilities and a showroom located in Kansas. It is the largest manufacturer of residential cabinetry in the state. The company manufactures and sells high quality, custom built cabinetry for the home and office, and sold by approximately 160 dealers in 31 states. Custom Cupboard's products are made-to-order kitchen and bath cabinets, desks, bookcases, entertainment centers, hutches - all with unlimited custom possibilities in finish and design. On the average, 200 sheets of plywood are cut in the manufacture of cabinets that are built each day. Custom Cupboards offers 70 door styles, 9 wood choices and 1,600 creative colors. In the finish department, beauty is added in the staining, painting, sealing, and a top-coating process. The company has a detail department where the doors and hinges are installed. The special case department adds the appliance garages, pull out shelves, tip out trays, can racks, bread boards, recycling bins, plate/wine/spice racks, valances, super susans, cutlery trays, chop blocks and more.

The main plant and corporate office which is approximately 200,000 s.f., is located at 3738 S. Norman. Custom Cupboards had another plant with approximately 24,000 s.f. of space located at 2432 S. Sheridan in Wichita which housed the rough mill where the cabinet drawer fronts and face frames were manufactured, but have since moved those operations to the expanded facility at the S. Norman location.

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The expansion project includes purchase of new machinery and equipment. Custom Cupboards currently employs 226 employees in which the company has added 34 since 2005. As a result of the expansion project, Custom Cupboards projects to add an additional 35 within the next three years. Custom Cupboards exports 95% of all production out of the State of Kansas.

The expansion project is itemized in Exhibit I attached hereto. Under the Economic Development Incentive Policy, Custom Cupboards is eligible for the following property tax abatement:

TAX EXEMPTION ELIGIBILITY

ELIGIBLE %	INCENTIVE	EXPLANATION
61.0%	New Job Creation:	Custom Cupboards will create at least 35 new jobs.
11.0%	Capital Improvements:	Custom Cupboards will invest at least \$570,462.
72.0%	Sub Total Business - Incentive Eligibility (Maximum allowed is 100%)	
00.0%	Location Premium:	Custom Cupboard is not located in the central redevelopment area.
72.0%	TOTAL EXEMPTION ALLOWED UNDER ECONOMIC DEVELOPMENT INCENTIVE POLICY	

Under the Economic Development Incentive Policy, Custom Cupboards, Inc., is eligible for a 72% tax exemption on personal property for a five-year term. A notice of public hearing has been published.

The estimated first year taxes on the proposed \$570,462 expansion would be \$13,866 on personal property, based on the 2005 mill levy. Using the allowable tax exemption of 72 percent, the City would be exempting (for the first year) \$9,984 of new taxes from the personal property tax rolls. The tax exemption will be shared among the taxing entities as follows: City - \$2,807; County/State - \$2,663; and USD 265 - \$4,514.

Wichita State University Center for Economic Development and Business Research calculated a cost-benefit analysis indicating benefit-to-cost ratios, which are as follow:

City of Wichita	3.70 to one
Sedgwick County	3.24 to one
USD 265	1.26 to one
State of Kansas	4.76 to one

Economic Vitality and Affordable Living. Granting an ad valorem property tax exemption will encourage the business to create new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.

The City Attorney's Office has approved the Ordinance as to form.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--

Gray moved that the public hearing be closed; the Ordinance granting a 72% tax exemption on the identified personal property improvements for a five year term, subject to City Council review be placed on first reading. Motion carried 6 to 0, (Brewer absent)

--carried

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ORDINANCE

An Ordinance exempting property from ad valorem taxation for economic development purposes pursuant to Article II, Section 13, of the Kansas Constitution; providing the terms and conditions for ad valorem tax exemption; and describing the property of Custom Cupboards, Inc. so exempted, introduced and under the rules laid over.

HARLOW AERO. PUBLIC HEARING AND TAX EXEMPTION REQUEST, HARLOW AEROSTRUCTURES, LLC. (DISTRICT IV)

Allen Bell

Economic Development Administrator reviewed the item.

(Council Member Fearey momentarily absent)

Agenda Report No. 06-0920

Harlow Aerostructures, LLC, located at 1501 S. McLean Boulevard in southwest Wichita, was locally formed in 1954. Since inception, Harlow Aerostructures has sustained consistent growth in manufacturing parts for the aerospace industry. Harlow Aerostructures recently expanded its manufacturing capacity through the acquisition of new machinery and equipment. Based on a letter of intent, Harlow Aerostructures is now requesting approval of an Economic Development Tax Exemption on the manufacturing equipment in conjunction with the expansion project.

Harlow Aerostructures, LLC, is a manufacturer of machining and sheet metal products for the aircraft industry. With a wide range of manufacturing capabilities Harlow Aerostructures produces components from large bulkheads, spars, chords, stringers, to small bushings, bolts, pins and bearings. In addition, the Company develops prototypes for aircraft throttle quadrants and monolithic structural components through close integration for its customers. Harlow Aerostructures also has experience in product development as well as in machining, which has enabled them to expand as a primary core competency their ability to fabricate complex assemblies. Harlow's assembly capabilities include the manufacture of highly complex electro-mechanical throttle quadrants which are functionally tested and preset in-house, ready for installation on the assembly line as well as complex sheet metal & structural component assemblies which includes kitting services. This core competency is fully supported by the Company's complete engineering, manufacturing and processing capabilities that provide the vertical integration they need to manage and control the diverse mix of complex components required to build precision assemblies. Harlow Aerostructures exports its products out of the State of Kansas via Spirit Aerosystems/Boeing, Cessna, Raytheon, General Dynamics, Vought, Gulfstream, and Israel Aircraft Industries.

Harlow Aerostructures currently employs 53 employees. As a result of the expansion project, Harlow Aerostructures will create 38 new jobs over the next five years, at an average annual salary of \$38,201. The City's Economic Development Incentive Policy requires eligible businesses to pay wages that exceed the lower of the average wage for the Company's type of business or the average of all wages in the Wichita MSA, excluding transportation equipment manufacturing. Harlow Aerostructures meets this threshold.

The expansion project is itemized in Exhibit I attached hereto. Under the Economic Development Incentive Policy, Harlow Aerostructures is eligible for the following property tax abatement:

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TAX EXEMPTION ELIGIBILITY

ELIGIBLE %	INCENTIVE	EXPLANATION
70.0%	New Job Creation:	Harlow Aerostructures will create at least 38 new jobs.
30.0%	Capital Improvements:	Harlow Aerostructures will invest at least \$2,384,170.
100.0%	Sub Total Business - Incentive Eligibility (Maximum allowed is 100%)	
00.0%	Location Premium:	Harlow Aerostructures is not located in the central redevelopment area.

100.0% TOTAL EXEMPTION ALLOWED UNDER ECONOMIC DEVELOPMENT INCENTIVE POLICY

Under the Economic Development Incentive Policy, Harlow Aerostructures, LLC., is eligible for a 100% tax exemption on new personal property for a five-year term.

The estimated first year taxes on the proposed \$2,384,170 expansion would be \$57,954 on personal property, based on the 2005 mill levy. Using the allowable tax exemption of 100 percent, the City would be exempting (for the first year) \$57,954 of new taxes from the personal property tax rolls. The tax exemption will be shared among the taxing entities as follows: City - \$16,294; County/State - \$15,456; and USD 259 - \$26,204.

Wichita State University Center for Economic Development and Business Research calculated a cost-benefit analysis indicating benefit-to-cost ratios, which are as follow:

City of Wichita	3.08 to one
Sedgwick County	2.37 to one
USD 259	1.26 to one
State of Kansas	5.75 to one

Economic Vitality and Affordable Living. Granting an ad valorem property tax exemption will encourage the business to create new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.

The City Attorney's Office has approved the Ordinance as to form. A notice of public hearing has been published.

Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion-- Gray moved that the public hearing, be closed; the Ordinance granting a 100% tax exemption on the identified personal property improvements for a five year term be placed on first reading and the Mayor authorized to sign. Motion carried 6 to 0, (Brewer absent).
--carried

ORDINANCE

An Ordinance exempting property from ad valorem taxation for economic development purposes pursuant to Article II, Section 13, of the Kansas Constitution; providing the terms and conditions for ad valorem tax exemption; and describing the property of Harlow Aerostructures, LLC, so exempted, introduced and under the rules laid over.

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ETHANOL

PUBLIC HEARING AND REQUEST FOR LETTER OF INTENT FOR INDUSTRIAL REVENUE BONDS, ETHANOL PRODUCTS, LLC. (DISTRICT II)

Allen Bell

Economic Development Administrator reviewed the item.

Agenda Report No. 06-0921

On September 20, 2005, the City Council approved the issuance of Industrial Revenue Bonds in an amount of \$2,000,000, and a five-plus-five year 100% tax exemption on bond-financed property to Ethanol Products, LLC. Proceeds from the bond issue were used to finance the cost of constructing and equipping a company headquarters facility located at 37th and Webb in northeast Wichita. Ethanol Products is now planning to expand its company headquarters facility and requests the issuance of a two-year Letter of Intent for IRBs in the amount not-to-exceed \$4,000,000. Bond proceeds will be used to finance the cost of constructing an additional office facility. Ethanol Products is also requesting the City Council's approval of a 100% five-year tax exemption on bond-financed property and a second five-year exemption upon City Council approval.

Ethanol Products, LLC is a South Dakota company that was formed in May 2000. Ethanol Products is engaged in marketing, trading, distribution, risk management and market development of renewable fuels throughout the United States. Ethanol Products is the second largest supplier of fuel grade ethanol in the United States with over 615 million gallons of production per year, and currently markets for 18 ethanol plants in the upper Midwest, including one in Kansas. Ethanol Products' customers are primarily comprised of the major petroleum companies and the product is delivered to destinations all across the upper Midwest and on both the East and West Coasts.

Ethanol Products has already outgrown the space in its new office building at 9530 E. 37th Street. The company plans to construct a 20,000 s.f. office building that will accommodate its expanded operations. The new facility will be located on Webb Road between 38th and 39th Streets North, in northeast Wichita. The company currently employs 41 at its current location and has committed to hire 45 new employees over the next five years. The average salary at Ethanol Products is \$44,000 per year.

The proceeds of the proposed \$4,000,000 industrial revenue bond will be used to pay the costs of constructing the new facility.

The firm of Kutak Rock LLP, will serve as bond counsel in the transaction. Ethanol Products will purchase the bonds, and the bonds will not be reoffered to the public. The Company agrees to comply with the City's requirements contained in the Standard Letter of Intent Conditions.

The Company agrees to pay all costs of issuing the bonds and the City's \$2,500 annual IRB administrative fee for the term of the bonds. Under the City's Economic Development Incentive Policy, the project qualifies for a 100% tax exemption on property purchased with bond proceeds, based on creation of 45 new jobs and the investment of \$4 million.

The estimated first year's taxes on Ethanol Products' proposed \$4,000,000 expansion would be \$115,157 on real property improvements, based on the 2005 mill levy. Using the allowable tax exemption of 100 percent, the City would be exempting (for the first year) \$115,157 of new taxes from the real property tax rolls. The tax exemption would be shared among the taxing entities as follows: City - \$32,376; County/State - \$30,712; and USD 375 - \$52,069.

The cost/benefit analysis showing the proposed expansion project's fiscal impact on the state and local government has been carried out by Wichita State University's Center for Economic Development and Business Research. Results of the study give the following ratios of benefits to costs:

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City of Wichita	1.79 to one
Sedgwick County	1.33 to one
USD 375 Circle	1.00 to one
State of Kansas	15.95 to one

Economic Vitality and Affordable Living. Granting an ad valorem property tax exemption will encourage the business to create new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.

Bond counsel will prepare the bond documents. The City Attorney's Office will review and approve the form of bond documents prior to the issuance of any bonds.

Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion-- Schlapp moved that the public hearing be closed; a Letter of Intent to Ethanol Products, LLC for Industrial Revenue Bonds in an amount not-to-exceed \$4,000,000, subject to the Standard Letter of Intent Conditions, for a term of two-years be approved; a 100% tax abatement on all bond-financed improvements for an initial five-year period plus an additional five years following City Council review --carried be approved and the necessary signatures authorized. Motion carried 6 to 0, (Brewer absent).

DEAN & DELUCA AUTHORIZATION OF CHANGE OF TENANT ENTITY, DEAN & DELUCA, INC. (DISTRICT I)

Allen Bell Economic Development Administrator reviewed the item.

Agenda Report No. 06-0922

On December 12, 2000, City Council approved the issuance of its Taxable Industrial Revenue Bonds, Series IX-A, 2000, in the amount of \$2,760,000, and its Subordinated Taxable Industrial Revenue Bonds, Series IX-B, 2000, in the amount of \$660,724, to finance facilities for the benefit of Dean & DeLuca, Inc., located at 2526 E. 36th Street N. Circle. The proceeds of the bonds were used to construct a new 52,000 s.f. building addition. Council also approved a 5+5 year property tax abatement on the building addition. The building addition is used primarily for Dean & DeLuca operations.

The City has received a request from Dean & DeLuca to assign all of its rights, title and interest, obligations and duties as Tenant under the Lease to Northridge Warehouse, LLC, a Kansas limited liability company that is owned by Leslie Rudd, who also is the owner of Dean & DeLuca and Standard Liquor Corporation. Dean & DeLuca is now requesting City Council consent to an assignment and amendment of the Lease. Dean & DeLuca, Inc. will remain a subtenant, and Standard Liquor, a short-term subtenant, will become a long-term subtenant.

Pursuant to Article IX of the Lease, the Tenant may assign its interest in the Lease with the prior written consent of the Issuer. Any subleases other than those to the existing subtenant, will require City consent, and tax abatement will lapse if Dean & DeLuca leaves the financed facility.

There is no financial impact to the City as a result of the requested change.

Economic Vitality and Quality of Life. Economic development incentives such as industrial revenue bonds stimulate the creation of high-quality jobs.

The City Attorney's Office has reviewed and approved the Resolution and amended documents as to form.

Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion-- Mayans moved that the Ordinance authorizing the assignment and amendment of the Lease be placed --carried on first reading and the necessary signatures authorized. Motion carried 6 to 0, (Brewer absent).

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ORDINANCE

An Ordinance of the City of Wichita, Kansas, prescribing the form and authorizing the execution of an agreement for amendment and assignment of lease and consent to assignment of lease in connection with the project financed with the City's taxable Industrial Revenue Bonds, Series IX-A, 2000 (Dean & Deluca, Inc.), and the City's subordinated taxable Industrial Revenue Bonds, Series IX-B, 2000 (Dean & Deluca, Inc.), introduced and under the rules laid over.

TRADE CENTER

KANSAS WORLD TRADE CENTER 2006-2007 CONTRACT.

Allen Bell

Economic Development Administrator reviewed the item.

Agenda Report No. 06-0923

The City of Wichita has contracted for economic development services from the Kansas World Trade Center ("KWTC") in annual amounts of \$50,000, starting in 1998 and continuing through 2005. Prior to 1998, KWTC received annual appropriations from the State of Kansas. From 1999 through 2002, Sedgwick County provided annual funding in the amount of \$50,000. In 2003, KWTC moved its offices from the Wichita Area Chamber of Commerce to the first floor of City Hall and received limited in-kind logistical support in addition to the annual contract amount. In 2005, KWTC moved to its present leased office space at 111 S. Market in downtown Wichita.

The mission of the KWTC is to promote the expansion of export activities of businesses in Kansas by providing specialized assistance and research to companies wishing to expand their access to the global marketplace, or to enter it for the first time. In addition to providing consulting and targeted services and targeted research for companies that are actively seeking international trade opportunities, the KWTC also conducts promotional campaigns, language classes, seminars, trade missions and presentations aimed at creating awareness of such opportunities.

In addition to providing international trade services directly to area businesses, the Kansas World Trade Center provides many valuable services for the City of Wichita, including assisting with Sister Cities programs, co-sponsoring the International Trade Processing Center feasibility study, hosting and organizing visiting foreign trade delegations and assisting the CVB, GWEDC and Chamber of Commerce with various international related issues.

Under the proposed contract for services with the City, KWTC will provide economic development services to increase international trade activity, for the period starting January 1, 2006 and ending December 31, 2007.

Payment for the contractual services will not exceed \$50,000 per year for calendar years 2006 and 2007. Funds for this purpose are budgeted in the revised 2006 budget and the adopted 2007 budget and will be paid from the Economic Development Fund.

The contract has been approved as to form by the Law Department.

Vitality and Affordable Living. Promotion of international trade is a vital ingredient in a package of economic development services available to the community's business sector in order to ensure a vibrant economy.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--
--carried

Mayans moved that the 2006-2007 contract with the Kansas World Trade Center be approved and the its execution authorized. Motion carried 6 to 0, (Brewer absent).

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WHOLESALE CUST. ORDINANCE TO ALLOW WHOLESALE CUSTOMERS A CONDITIONAL OPTION.

Dave Warren

Water and Sewer Director reviewed the item.

Agenda Report No. 06-0924

Wholesale customers are customers who buy water from Wichita at wholesale rates through a master meter, then redistribute the water to their retail customers. Examples of Wichita's wholesale water customers are Derby and Valley Center.

In 1993, the Water Utility adopted a base extra capacity rate structure that called for all water customers to be charged at a tiered rate tied to the percentage of their current usage, in comparison with a calculated winter average.

A wholesale rate was created at the time using the same concept as that applied to retail customers: a tiered rate structure based on winter averages. This was based on being equitable to retail and wholesale customers. It would have been unfair to apply a conservation-based rate structure to Wichita's retail customers, yet not apply similar standards to customers in outlying areas.

Comments from several wholesale customers in recent years prompted the Department to reexamine the policy of applying the tiered rate structure to wholesale customers. Their comments were directed at several issues, which are problematic for them. In summary, they are:

- The unpredictability of pricing owing to consumption falling into higher rate blocks if winter averages are exceeded (usage below 110 percent of AWC is \$.85, while usage above that level is \$4.50).
- The possibility that another potential wholesale supplier could compete effectively for water service to Wichita's existing wholesale customers by marketing services aimed at supplying only that marginal component of water supplied to the wholesale customer at higher block rates.

The information from wholesale customers pointed towards having all water purchased from Wichita charged at a uniform rate. In considering this, it was noted that the equity argument was still important; however, it can be successfully addressed by requiring that the wholesale customer adopt retail rates similar to those employed by Wichita.

As a result of these discussions, the professional services of Raftelis Financial Consultants Inc. was retained to examine the practicality of applying uniform rates to wholesale customers, and to develop a uniform wholesale rate that could be conditionally adopted by Wichita's wholesale water customers. The study was completed October 2005 and resulted in a calculated uniform wholesale rate of \$1.38 per thousand gallons.

The optional change to the uniform rate is designed to result in revenue neutrality. The rate will not result in substantial increases, or decreases, in the charges to wholesale customers.

This proposal will promote achievement of the following goal: Ensuring efficient infrastructure. A subcategory under this is to "provide reliable, compliant, and secure utilities." Effectively partnering with other municipalities in the metropolitan area results in reduced over all cost of utility services by taking advantage of economies of scale and the proven expertise of Wichita's staff in providing utility services.

The Ordinance has been approved as to form by the Law Department.

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Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard.

Cheryl Zordel

Ms. Zordel who resides at 2347 South Laura stated that the City of Wichita will loose control of how much water is used if the Council allows other cities to purchase water. Stated that the City of Wichita has control on how much water is used and if you allow the other cites to increase the rates you will also allow them to govern how much water they can take. Asked why would we want to give up our rights to get the money and increase the City of Derby, Maize or any other city's resident's costs, when Wichita can give it to them for a lower cost. Stated that this does not make any sense.

Motion--
--carried

Mayans moved that the amended Ordinance be adopted and the Ordinance placed on first reading. Motion carried 6 to 0, (Brewer absent).

ORDINANCE

An Ordinance amending Section 17.12.090 of the Code of the City of Wichita, Kansas, as amended by Ordinance No. 47-111, pertaining to schedule of rates and charges for water service, and repealing the original of said Section, introduced and under the rules laid over.

MASTER PLANNING MASTER PLANNING UPDATE.

Cynthia Berner-Harris

Director of Libraries reviewed the item.

AGENDA REPORT NO. 06-0925

The Wichita Public Library has used master plans to guide development, relocation and realignment of its library facilities dating back to at least 1965. The current plan, adopted in 1999, was the basis for the creation of the Evergreen and Lionel D. Alford branch libraries.

The Library Board of Directors began work updating the current plan in 2004. With assistance from Gossen Livingston Associates and The Research Partnership, a combination of trend analysis of library use, comparative analysis with standards for public library service, focus groups, telephone surveys, presentations to community groups and collection of comments from library customers and members of the six district advisory boards to guide development and refinement of the master plan adopted by the Library Board of Directors on August 15, 2006. The plan includes the following strategies:

By 2011: Create a new 135,000 s.f. Central Library in the core area of the City

By 2013: Replace the current Westlink branch with a 25,000 s.f. regional library in the general area of the present location (incorporating the current Orchard branch)

By 2016: Create a new 7,500 s.f. neighborhood branch library for Southeast Wichita in the general area of Pawnee and George Washington Boulevard (relocating and combining the Planeview and Linwood branches)

Between 2016 and 2021: Create a new 25,000 s.f. regional library in far East/Northeast Wichita (relocating and combining the Comotara and Rockwell branches)

By 2021: Expand and/or remodel the remaining facilities in the library system (Alford, Angelou and Evergreen) as need as use might dictate

Endorsement of the plan has no financial impact. It is estimated that costs for all proposed projects over the lifetime of the plan will be in the vicinity of \$56,000,000. Specific costs, however, can only be developed after sites and program requirements for facility changes are identified.

The plan addresses the Quality of Life goal by enabling the Wichita Public Library system to expand its capacity for service delivery into the future. In addition, it impacts the Efficient Infrastructure goal by working to optimize library facilities and may impact the Dynamic Core Area and Vibrant Neighborhoods if access and services at the Central Library can be enhanced.

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- Council Member Skelton Council Member Skelton stated that regarding the new Southeast Wichita branch, which is to be completed in 2016, asked if there is any plans to purchase land or will it go into a shopping center that is not there yet.
- Cynthia Berner-Harris Director of Libraries stated that the plan is if the Council chooses to endorse the action of the board today, they will start work submitting all of these projects into the capital improvement process for the plan that they are starting to update and that the timing of that comes back to the Council. Stated that the Library Board in the meantime will definitely start to do more work, identify more specific sites and start to think through the programmatic elements of those buildings, which would help determine the exact details of what those would look like.
- Council Member Skelton Council Member Skelton stated that his concern is that this is a vacant parcel and if we wait five or ten years and not do anything to acquire land, it will be gone. Stated that the reason this location is so important is because of its proximity to Planeview and does not think that we can let this one slip by.
- Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard.
- Cheryl Zordel Ms. Zordel state that she did her student teaching at Planeview and that one of the things that she liked about that library is that it got the public into the school and gave it more attention and would hate to have this library pulled out of the school. Stated that we have a beautiful downtown facility that is not being used like it should be and asked that this library not be expanded.
- Motion--
--carried Mayans moved that the plan as adopted by the Library Board of Directors be endorsed. Motion carried 6 to 0, (Brewer absent).

COX COMMUN. AMENDMENT TO FRANCHISE ORDINANCE NO. 42-264 WITH COX COMMUNICATION KANSAS, LLC.

Gary Rebenstorf Director of Law reviewed the item.

Agenda Report No. 06-0926

The current cable television franchise was granted for the operation of a broadband telecommunications network on February 8, 1994, and effective April 10, 1994. The 15-year franchise was granted to Multimedia Cablevision, Inc., and now is assigned to Cox Communications Kansas LLC. ("Cox"). A requirement of the franchise was that Cox provides five channels for education and governmental access. In providing such channels, Cox was meeting Federal cable requirements to make public, education, and governmental (PEG) channels available in the community. Cox has now requested a reduction in the PEG channels to three. This change will require an amendment to the franchise ordinance.

Currently, Cox allocates five channels through the City's franchise. Three channels are allocated to USD #259; one channel to WSU and the last channel is the City's Channel 7. Cox is proposing that the three allocated to USD #259 be reduced to one. USD #259 concurs with the proposal. If Cox's proposal is implemented, one channel would be allocated to USD #259, one channel to WSU, and the City would retain its Channel 7.

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When cablevision was first introduced to the public, cities negotiated franchises for channels for their use and their communities' use. Twenty years have passed, a lot of experience has been gained and cities are discovering that it's not the quantity but the quality of programming for channels. After all, even networks have a difficulty of programming 24/7. The City of Wichita is just beginning to understand the how, what and why of Channel 7. USD #259 has learned that one channel will fit their needs in the future. Cox can better utilize the two channels to offer more programming options to their customers.

The franchise ordinance amendment would revise the section of the franchise that pertains to cable installation requirements. Three educational and governmental channels would be required. It would maintain one channel each for the use of the City, WSU, and USD #259.

Staff believes that this amendment provides a win-win situation for all stakeholders. Staff recommends that the approval of this franchise amendment be conditioned upon the City and WSU maintaining their current channel assignments and USD #259 maintaining its channel of choice.

There will be no direct financial impact on the franchise fees paid under the franchise. Cox is required to pay for publication of the ordinance.

The franchise amendment has been drafted and approved as to form by the Law Department. The ordinance will be effective upon approval by City Council after two readings and upon one publication.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--
--carried

Mayans moved that the ordinance be placed on first reading and the necessary signatures authorized. Motion carried 6 to 0, (Brewer absent).

ORDINANCE

An Ordinance amending Section 19 of Ordinance No. 42-264 of the City of Wichita, Kansas, pertaining to a franchise granted to Multimedia Cablevision, Inc. and assigned to Cox Communications Kansas, LLC, to construct, operate and maintain a broadband telecommunications network within the City of Wichita; and repealing the original of said Section, introduced and under the rules laid over.

FIRE STATIONS

FIRE STATIONS NUMBER 20, 21 AND 22. (DISTRICTS II, III AND V)

Ed Martin

Building Services Manager reviewed the item.

Agenda Report No.06-0927

In August of 2000 the City Council adopted the Fire Station Construction and Relocation Study. The Study, performed by the TriData Company, recommended a multi-year plan to construct ten Fire Stations. Under the plan, some stations would be relocated and some would be new stations. To date, six stations have been relocated.

The next phase of construction is scheduled for 2007 – 2008, when Fire Stations #20, #21 and #22 will be built. To expedite the design process, a Request for Proposal (RFP) for architectural design services has been issued.

Geographic Information Systems (GIS) modeling has identified three general locations for Fire Stations that would maximize efficiency and effectiveness of fire and emergency medical response. The locations will improve geographic coverage, will reduce both first- and second-in unit response times, and will generally provide more coverage for both developed and developing areas of the City.

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A station at the Pawnee and Greenwich area would serve the far southeast portion of the City, the 21st St. N. and 135th St. W. area would serve far northwest Wichita, and the Wassell and Hydraulic area would improve service to the south central part of Wichita. All of these locations would also provide significant service improvements to areas adjacent to the City, in support of the Enhanced First Responder agreement.

Three general activities are required to open the Fire Stations: land acquisition, design and construction. All of these activities will be returned to City Council for review and approval. Contracts for land purchase and design services will need to be approved, as well as the award of the construction contract. Ideally, the first of the three stations will be operational in late 2007, with the other two stations coming on line in 2008.

The Adopted 2005 – 2014 Capital Improvement (CIP) Program includes \$7.3 million for three Fire Stations. The funding includes land acquisition, architectural design, construction and equipment, including up to three new Fire Engines. The operating costs for staffing the stations is included in the 2007 – 2008 Adopted Budget.

Construction and staffing of these Fire Stations will impact the Provide a Safe and Secure Community goal. Specifically, the stations will address the maintained and/or improved response time's indicator.

The bonding resolution has been approved as to legal form by the Law Department.

- Council Member Skelton Council Member Skelton asked if the City has contacted Mr. Cornejo regarding the possible land donation and what has been done to evaluate his land.
- George Kolb City Manager stated that he has had conversations with the fire department and Mr. Cornejo has not officially approached them. Stated that when they looked at the property the property was not ideally or optimally located in order to provide effective service in that location so they are looking at other locations.
- Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard.
- Bill Davis Mr. Davis stated that this is a sore subject with the residents in the south central area as well as Planeview, Oaklawn and Hilltop. Stated that the people in the Wassall area are boxed in and need help and need a fire station as soon as possible. Stated that it is shameful that some people in the south central area are just ignored or forgotten.
- Council Member Skelton Council Member Skelton stated that it was his original preference to try and build all three fire stations at one time but did not have the votes to do that. Stated that the plan is to try and build this station a year from November.
- George Kolb City Manager stated that the plan is that by the end of 2007 there will be one station built and in 2008 the other two stations will be built.
- Council Member Skelton Council Member Skelton stated that his biggest concern is that something financially in the City is going to present itself and we will be unable to do that and this is his biggest concern about being last as far as having the south city station built.
- Motion-- Schlapp moved that the project be approved; the bonding resolution adopted and staff authorized to
--carried begin land acquisition activities. Motion carried 6 to 0, (Brewer absent).

RESOLUTION NO. 06-460

A Resolution determining the advisability of making certain public improvements in the City of Wichita, Kansas; setting forth the general nature and the estimated cost of such improvements; and authorizing the issuance of bonds of the City of Wichita, Kansas, to pay all or a portion of the cost thereof; presented. Schlapp moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Fearey, Gray, Martz, Schlapp, Skelton, and Mayans, (Brewer absent).

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STOPBLIGHT

STOPBLIGHT: AMENDED HOUSING CODE ORDINANCE, TITLE 20.04 AND NEW VACANT AND NEGLECTED BUILDINGS ORDINANCE, TITLE 30.01.

Kurt Schroeder

Office of Central Inspection reviewed the item.

(Mayor Mayans momentarily absent, Vice-Mayor Gray in the Chair)

Agenda Report No. 06-0928

Over the past year, the City Council has expressed its desire to strengthen neighborhoods, and particularly, to find more effective ways to eliminate blighting influences such as deteriorating, vacant and/or abandoned buildings. A significant part of this effort includes the “StopBlight” initiative.

The StopBlight initiative, as first presented in a City Council workshop in early 2006, included five (5) key strategies: (1) obtaining tax delinquent property through tax foreclosure or “special” tax foreclosure purchases made by the City or qualified neighborhood non-profit entities, and working with Sedgwick County to promote more timely and frequent tax foreclosure sales; (2) identifying and developing resources to allow for bidding and/or outright purchase of properties that can be rehabilitated or redeveloped; (3) strengthening boarded and/or abandoned/long-term vacant building ordinances, policies and procedures; (4) requiring local agent designation/registration for problem properties owned by non-local persons or entities; and (5) creating means to acquire and “land-bank” land for future re-use.

At the August 15, 2006 City Council workshop, staff presented an overview of proposed ordinances, processes and procedures related to strategies 3 and 4 above, focusing primarily on proposed revisions to the current Housing Code (Chapter 20.04 of the Code of the City of Wichita) and a proposed new Vacant and Neglected Building Code (Chapter 30.01). The City Council indicated substantial support for the proposed ordinance amendments, and directed staff to prepare the ordinances for City Council review and adoption (with the understanding that the other key strategies would continue to be developed for implementation).

Primary proposed changes are outlined below for each Code Chapter. Other significant complementary policy/procedure changes to be implemented upon adoption of the ordinances are also briefly described.

Chapter 20.04 – Housing Code

Several new or significantly amended definitions, including: “Apartment building”, “Operator”, “Owner” and “Resident Agent.” The proposed modifications provide necessary clarification for enforcement and prosecution purposes, and provide key linkages to the new Vacant and Neglected Buildings Code’s building and/or out-of-county “resident agent” registration requirements.

- i Significant changes to Housing Code court penalties, including: (1) increased potential maximum fines per violation (for first offenses) from \$500 to \$1,000 (no minimum fine is established for first offenses); (2) increasing maximum fines for repeat offenders of the Housing Code (convictions of similar code offenses within a five-year time frame); and (3) increasing minimum fine amounts for repeat offenders. Currently, the Code has no schedule of increasing maximum fines for repeat offenders and no minimum fine amounts for repeat offenders.
- i New provisions in the penalties section that allow the court to order community service as part of or in lieu of fines, but only after the defendant has filed affidavits of financial condition, and the court has reviewed and determined from affidavit information that the defendant is financially unable to pay the imposed fines.
- i New provisions in the penalties section that allow the judge, in addition to fines and other penalties, to require a defendant to register the problem property (as required by the proposed new Vacant and Neglected Buildings Ordinance).

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In addition to the proposed ordinance changes, City staff has developed (and proposes to implement) a Housing Code Diversion Program for qualified/eligible first-time offenders. The program will develop realistic and attainable compliance targets, and will attempt to connect income and otherwise eligible defendants with appropriate resources to complete required repairs. A summary of diversion eligibility criteria and program process was presented during the August 15, 2006 City Council workshop.

Chapter 30.01 – New Vacant and Neglected Buildings Code

Defines “buildings” covered by the ordinance to include all structures used for residential, public, institutional, business, industrial or storage purposes.

- i Defines “boarded buildings”.
- i Defines “resident agent”.
- i Defines “vacant buildings” to include unoccupied buildings (whether or not boarded) for which one or more of the following has occurred: (1) the building has been the subject of two or more notices of violation of provisions of the Housing Code or the minimum maintenance code for existing non-residential buildings within the past 18 months, and the owner has failed to demonstrate due diligence to abate the violations; (2) the building is unsecured; (3) the building has sustained significant fire, wind or water damage and is uninhabitable; (4) the building has been declared a criminal nuisance per state statute; (5) the building has been boarded for more than 90 days; (6) the building has sustained substantial deterioration due to lack of maintenance; (7) the owner has failed to appear and a warrant has been issued in municipal court for violations of the Housing Code, the minimum maintenance code for existing non-residential buildings, or the provisions of the Vacant and Neglected Buildings Code; or (8) the owner has refused to accept service of notices of violations of the Housing Code, the minimum maintenance code for existing non-residential buildings, or the provisions of the Vacant and Neglected Buildings Code.
- i Defines “neglected buildings” as occupied buildings in which one or more of the following has occurred within the past 18 months: (1) the building has been the subject of two or more notices of violation of provisions of the Housing Code or the minimum maintenance code for existing non-residential buildings within the past 18 months, and the owner has failed to demonstrate due diligence to abate the violations; (2) the building has been declared a criminal nuisance per state statute; (3) the building has sustained substantial deterioration due to lack of maintenance; (4) the owner has failed to appear and a warrant has been issued in municipal court for violations of the Minimum Housing Code, the minimum maintenance code for existing non-residential buildings, or the provisions of the Vacant and Neglected Buildings Code; or (5) the owner has refused to accept service of notices of violations of the Minimum Housing Code, the minimum maintenance code for existing non-residential buildings, or the provisions of the Vacant and Neglected Buildings Code.
- i Requires owners of vacant or neglected buildings to register such buildings with OCI, including a registration fee of \$25. The registration must include the following: (1) premise description; (2) names and addresses of the owner or owners; (3) the names and addresses of all known lien holders and all other parties with a legal or equitable interest in the building; (4) the name of the resident agent designated to act on behalf of the owner to accept legal processes and notices, and to authorize required repairs; and (5) if the building is vacant, a detailed “Statement of Intent” to be submitted within 30 days of the date that the Superintendent orders the structure to be registered.

The Statement of Intent must be reviewed and approved by the Superintendent of Central Inspection, and must include information regarding: (1) the expected period of vacancy; (2) a plan for regular maintenance during the period of vacancy; (3) a reasonable plan and time line for the sale, rehabilitation or demolition of the building; and (4) any other information required by the Superintendent of Central Inspection.

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- i Establishes criteria for removal of vacant or neglected buildings from registration, including: (1) compliance with all environmental health and life safety standards set forth in applicable City codes; (2) removal or demolition by the property owner; or (3) abatement or demolition by the City.
- i Establishes civil penalties against owners of vacant and/or neglected buildings that: (1) are not registered as legally required by the Superintendent of Central Inspection; (2) do not have an acceptable and/or approved, "Statement of Intent" submitted by the owner or their designee; or (3) do not comply with the approved "Statement of Intent" action plan. A civil penalty of \$250 may be assessed for each 90-day period that a violation of the Vacant and Neglected Buildings Ordinance continues to exist, not to exceed \$1,000 per building per calendar year.
- i Establishes an appeals process and the procedures for owners and/or their legally designated agents to appeal decisions of the Superintendent of Central Inspection (or his designees) to the Board of Code Standards and Appeals (BCSA), and to appeal BCSA decisions to the City Council.
- i Does not preclude other legal action, and in no way limits the penalties, actions or abatement procedures that may be taken by the City for violations of the Housing Code, the minimum maintenance code for existing non-residential buildings, the Unified Zoning Code or environmental health codes.

An initial \$25 vacant and/or neglected building registration application fee is required, and will be used to help offset the administrative expenses of OCI and other City Departments.

On January 24, 2006, the City Council adopted five (5) goals for the City of Wichita. These include: Provide a Safe and Secure Community, Promote Economic Vitality and Affordable Living, Ensure Efficient Infrastructure, Enhance Quality of Life, and Support a Dynamic Core Area & Vibrant Neighborhoods. The proposed ordinances support both the "Provide a Safe and Secure Community" goal and the "Dynamic Core Area and Vibrant Neighborhoods" goal. The proposed ordinances will provide new tools to more effectively eliminate dangerous and/or blighted buildings, and will enhance efforts to revitalize neighborhoods and the core area.

The ordinances have been prepared by the Law Department and have been approved as to form.

(Council Member Martz momentarily absent)

- Mayor Mayans Mayor Mayans stated that the definition of vacant buildings in the ordinance means an unoccupied building, whether or not has been boarded up and asked Kurt Schroeder what his definition of vacant is.
- Kurt Schroeder Office of Central Inspection stated that it is being unoccupied and no one living or using it.
- Mayor Mayans Mayor Mayans stated that vacant and unoccupied mean two different things. Stated that unoccupied is when the person is not there but there is furniture and vacant is there is no furniture or anything in the building. Stated that he is not satisfied that the definition for vacant gets to that point.
- Gary Rebenstorf Director of Law explained that the intent of the section regarding inspection of the property, is to authorize police, fire, OCI and health inspectors to make those type of inspections and in order to make an inspection, they have the right under the law to review anything from the street but in order to get into or on the property, they would have to get a search warrant to do that. Stated that in this type of situation when we have a complaint or a notice that there is a situation that is in violation of the ordinance, then OCI or inspector makes contact with that person and tells them what the problem is and lets them know this needs to be taken care of and if it is not, then it is a gradually step process to where we get to the point to where we have to bring the person to court or require them to make the changes that are necessary.

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- Mayor Mayans Mayor Mayans asked that is not stated in the ordinance.
- Gary Rebenstorf Director of Law stated that in the past is has been the practice to have the ordinance set up the requirements and what the duties are of the inspectors and then we have administrative processes where the offices that are in charge of that have to follow certain procedures. Stated that the procedures have not been set out from the administrative standpoint in the ordinances because they have to do that.
- Mayor Mayans Mayor Mayans stated that is a problem because the legislative body passes something and then the administrators create the rules and regulations to administer, which may be in conflict to what the we wants to do.
- Gary Rebenstorf Director of Law stated that once those rules and regulations are drafted, his staff reviews them to make sure that they are in compliance with the ordinance that the Council adopted and with the regulations or the laws that are required because they interact with the inspectors on quite a few situations where they call to get their advice.
- Council Member Skelton Council Member Skelton stated that it is important to remove any perception or potential for ambiguity in the revised code and looks to our legal staff and other professionals to address that concern.
- (Council Member Schlapp momentarily absent)
- Council Member Fearey Council Member Fearey stated that she thinks this is extremely important and living in a neighborhood that has these kind of houses and having actually worked with a neighborhood group to get a few of them fixed up and see what they have become for people in our community, is amazing but it is so hard right now for a neighborhood to deal with this and that she feels this is a good first step.
- (Council Member Skelton momentarily absent)
- Council Member Gray Council Member Gray stated that we are not just talking about vacant buildings but vacant and distressed buildings and thinks that if you want to go through this document and cite what you are calling a vacant building, that word should be revised because it is not just a vacant building and as long as you keep calling it that there is going to be a lot of people out there that will be confused by that. Stated that the ordinance should be amended to include that because as it is written that way there is going to be confusion.
- George Kolb City Manager stated that he is in support of this amendment but would like to caution the Council about a couple of things. Stated that staff has worked very hard in trying to identify where we have deficiencies in our code enforcement program and the case load for neglected buildings has been growing for some time and they have been looking for ways to effectively address that. Stated that this problem will not go away but hope will happen, that they will have a more effective way of addressing these calls.
- Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard.
- OmPal Chauhan Mr. Chauhan stated that he resides at 31 Laurel and that he is on the Board of Directors for the Rental Owners Association and has no problem with the housing code but has serious concerns about the proposal creating fines from \$500.00 to \$1,000.00 for the first violation, \$250.00 to \$1,000.00 for the second violation and \$1,000.00 to \$2,500.00 for the third violation and in addition the proposal allows imprisonment of up to 12 months for each violation with every day that the violation is not corrected, it is considered a separate violation. Stated that technically a property owner can be sent to jail for 30 years for a housing code violation. Stated that there are several serious issues here and one is criminalization of the civil matters. Stated that it is important to note that the City has consistently failed to carry out its responsibility of providing safe and secure environment for all of the citizens, particularly those living in the northeast neighborhood beat 44. Stated that 176 of these boarded houses, which is the majority of the houses that are boarded up, are in beat 44 and he sees a connection between not enforcing the laws and having boarded up houses. Stated that we need to approach this issue intelligently and proactively and if we can remove the lawlessness and open property looting in the area, more people would be willing to move into these neighborhoods and boarded up house will

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become hard to find. Stated by throwing law abiding citizens in jail for being victims of property crimes and lawlessness is outrageous and he is appalled that all of the ordinances have criminal penalties when the act themselves are not criminals. Stated that we need to change the thinking so that we only hold responsible the people who willfully and purposely violate these ordinances. Stated that title 20 needs to include a provision in that title that holds the tenant or whoever commits the violation, responsible for it accountable and recommends that title 30 ordinance that is being proposed, is punitive, scapegoating of the property owners and there needs to be a frank and public discussion between the property owners and the City staff and the planning committee composed of both property owners and staff to set for a reasonable known punitive civil plan for addressing this issue.

Bill Davis

Mr. Davis stated that he is President of the South Central Progressive Neighborhood Association and resides at 1818 South Main. Stated that vacant homes in this area are rampant and OCI and the Health Department get almost monthly notes from him regarding these issues. Stated that he gets calls almost daily from frustrated neighbors who call the City to report these types of conditions and nothing gets done. Stated that this ordinance is going to help the City and help them clean up these neighborhoods and get rid of the blight. Stated that there are a lot of absentee landlords that are taken care of by rental companies and they do not really care what they look like or how deteriorated they get as long as they get their money for their rent.

(Council Member Fearey momentarily absent)

George Kolb

City Manager stated that staff has no problem in delaying the ordinance at this time and they have not been to the DABs with this and could go to them and any other type of public education process that the Council would like for us to have. Stated that they have widely publicize the issues that plague for example beat 44 and have also publicized the issues that plague our code enforcement program.

Pat Daniels

Mr. Daniels stated that he resides at 241 South Holyoke and is a landlord and Vice-President of Rental Owners Incorporated, which is a non-profit group formed in 1967 with the purpose of helping good landlords become better landlords and they have more than 150 members and he is here today on their behalf. Stated that blighted housing is unwelcome in any neighborhood and has no place in Wichita. Stated that a poorly maintained house next to or in the vicinity of even the nicest house dramatically reduces its value and rent ability. Stated that Rental Owners Incorporated strongly supports the vigorous enforcement of all existing ordinances and some of the proposals in the stop blight program. Stated that they have maintained an open channel with OCI and Wichita Housing Services and they have invited the heads of these departments to speak at their group. Stated that they have expressed their desire to work together with the City on these types of programs but have yet to be invited to any level of planning. Stated that there are elements of this proposed program that they find very troubling, one example is the radical escalation in fines even for first time offenders and possible imprisonment of up to one year for each offense. Stated that he requests that this program be returned to City staff for refinement or be sent to the DABs for public discussion and input.

John Todd

Mr. Todd stated that he resides at 1559 Payne and is in the real estate business and stated that the issues that are being discussed are very broad and the tax foreclosure process needs to be looked at very carefully. Stated that we need to look at the definition of blight, do we have uniform enforcement of our codes and also need to look at our municipal court system regarding the fairness of the courts. Stated that we have people in this community who want to help and perhaps we can organize some groups that would mitigate some of these problems and help people who are too poor to repair their properties or physically or mentally infirmed and would like to be involved in that process.

Fred Byers

Mr. Byers stated that he resides at 1012 West 51st Street and thinks this ordinance is evidence that the City thinks property owners create blight. Stated that there are current ordinances on the book that allow the City to tear a house down. Stated that some of his properties are in bad condition but not because he does not care but because his health is extremely bad. Stated that he proposes this legislation that he thinks would correct at least this situation called blight and penalize the people who directly cause blighted areas, the criminals. Suggested that anyone convicted of breaking into a house vacant or not, be assessed a fine of not less than \$250.00 and three days in jail and payment arrangements may be made for the indigent only but only once. Damage will be paid by the violator to the City Court and reimbursed to the property owner. Second offense a fine of \$500.00, one month in

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jail. Stated that these are criminal offenses and not like the property proposals, which are not criminal offenses.

(Council Member Brewer returned to the bench)

Donald (inaudible) 1142 North Parkwood, stated that he has been walking the streets of District I and has noticed that the blight area is becoming more prevalent. Stated that that when they call into OCI to report the violations, they are told that staff will respond within eight days from the call. Stated that we need to educate the people regarding what the ordinances are that are going to be enforced before doing the enforcement.

(Council Member Gray momentarily absent)

Cheryl Zorder Ms. Zorder stated that she has lost her home and cannot afford another one and never wants to get into the housing market again.

Council Member Skelton Council Member Skelton stated that he had suggested some type of citizen panel in the past, to look at these ordinances and to make recommendations to staff and has discussed this in a workshop with City Council and this panel can be temporary. Stated that his desire is to get these laws on the books and that we need change in code enforcement. Stated that he is not stuck on a citizen panel and is willing to support other forms of citizen involvement and feels that this should definitely go before the DAB.

Mayor Mayans Mayor Mayans stated that this is a good idea but feels that it would take some time and thinks that this item can be deferred and have staff immediately begin to visit with these people who have brought up these concerns today.

Council Member Gray Council Member Gray stated that even though the panel is a good idea, he feels that time constraints are going to be far greater than what your optimistic expectations are and would still be very limited. Stated that the Renter's Association of Realtors, The Home Builders Association and others that are very large groups that would have a lot of expertise in this area and they all have monthly meetings which would be just as easy to get more input to go out and seek information from those groups.

Council Member Fearey Council Member Fearey stated that she wants the DABs to be included in this process.

Council Member Martz Council Member Martz stated that his recommendation is that we do this through the DABs within the next month and maybe through the various channels in the City to make an announcement that this would be one of the topics at the DAB meetings.

Council Member Brewer Council Member Brewer stated that the blight issue is a very serious issue and if we do not take some aggressive steps then it is going to continue to go on. Stated that many people who own rental properties only see it as an investment and are only going to invest the least amount of money into them so that they can get whatever necessary return that they may have and the City's number one goal should be to try and make sure that everyone can live the same quality of life or at least in a respectable, safe, nice and clean communities. Stated that whatever it takes to fix this problem, we need to do it and not take another 20 years or more to allow this to continue to go on.

Motion-- Mayans moved that this item be deferred and to go through the DAB process and allow the opportunity for whoever would like to participate to have a say on this issue and to bring it back to the Council at either the last meeting in October or the first meeting in November.

--carried

Motion carried 7 to 0.

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RECESS

Motion--

Mayans moved that the City Council recess into Executive Session at 12:40 p.m. to consider: consultation with legal counsel on matters privileged in the attorney-client relationship relating to: pending litigation, potential litigation, legal advice and contract negotiations and that the Council return from Executive Session no earlier than 1:40 p.m. and reconvene in the City Council Chambers on the First Floor of City Hall. Motion carried 6 to 0, (Brewer absent).

--carried

RECONVENE

The City Council reconvened in the Council Chambers on the First Floor of City Hall at 1:59 p.m. Mayor Mayans announced that no action was taken.

Motion--carried

Mayans moved to close the Executive Session at 2:00 p.m. Motion carried 6 to 0, (Brewer absent).

PAWNEE IMPROV.

PAWNEE IMPROVEMENT BETWEEN 119TH STREET WEST AND MAIZE. (DISTRICT IV)

Jim Armour

City Engineer reviewed the item.

Agenda Report No. 06-0929

On January 10, 2006, the City Council approved a project to improve Pawnee, between 119th St. West and Maize. Based on current bid prices, it is doubtful that a construction contract can be awarded within the approved budget. An amending Ordinance has been prepared to increase the project budget.

The project will reconstruct Pawnee to provide four through lanes and a median for left turn lanes. A new storm water sewer will be constructed.

The current budget is \$6,660,000, with \$2,700,000 paid by the City and \$3,960,000 by Federal Grants administered by the Kansas Department of Transportation. The funding source for the City share is General Obligation Bonds. The proposed increased budget is \$8,000,000, with \$2,900,000 paid by the City and \$5,100,000 paid by Federal Grants. Funding for the increased City cost is available in the Approved 2005-2014 Capital Improvement Program.

This project addresses the Efficient Infrastructure goal by improving traffic flow through a major traffic corridor.

The Law Department has approved the amending Ordinance as to legal form.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--

Gray moved that the revised budget be approved; the amending Ordinance placed on First Reading and the signing of State/Federal agreements as required authorized. Motion carried 7 to 0.

--carried

ORDINANCE

An Ordinance amending Ordinance No. 46-880 of the City of Wichita, Kansas declaring Pawnee, between 119th Street West and Maize (472-84357) to be a main trafficway Within the City of Wichita Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of the same, introduced and under the rules laid over.

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11TH ST BRIDGE

11TH STREET BRIDGE AT THE DRAINAGE CANAL. (DISTRICT I)

Jim Armour

City Engineer reviewed the item.

(Council Member Martz momentarily absent)

Agenda Report No. 06-0930

On April 4, 2006, the City Council approved a project to improve the 11th St. Bridge at the Drainage Canal. The project is funded by a combination of City and Federal funds. Based on current bid prices, it is doubtful that a construction contract can be awarded within the approved budget. Additional Federal funds are available for the cost increase. An amending Ordinance has been prepared to revise the project budget.

The project will replace the existing bridge. Sidewalks will be built on both sides of the new structure.

The current budget is \$1,202,000, with \$650,000 paid by the City and \$552,000 by Federal Grants administered by the Kansas Department of Transportation. The funding source for the City share is General Obligation Bonds. The proposed increased budget is \$1,532,000, with \$650,000 paid by the City and \$882,000 paid by Federal Grants.

This project addresses the Efficient Infrastructure goal by improving traffic flow through a major traffic corridor.

The Law Department has approved the amending Ordinance as to legal form.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard

Motion--
--carried

Brewer moved that the revised budget be approved; the amending Ordinance placed on First Reading and the signing of State/Federal agreements as required authorized. Motion carried 7 to 0.

ORDINANCE

An Ordinance amending Ordinance No. 47-009 of the City of Wichita, Kansas declaring the 11th Street north Bridge at the Wichita Drainage Canal (472-84396) to be a main trafficway Within the City of Wichita Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of the same, introduced and under the rules laid over.

PETITION

PETITION TO PAVE BROOKSIDE, NORTH OF CENTRAL. (DISTRICT II)

Jim Armour

City Engineer reviewed the item.

Agenda Report No. 06-0931

The signatures on the Petition represent 3 of 7 (42%) resident owners and 65% of the improvement district area. District II Advisory Board sponsored an August 7, 2006, neighborhood hearing on the project. The Board voted 7-0 to recommend approval of the project.

The project will provide paved access to a developed commercial area located north of Central, west of Woodlawn.

The estimated project cost is \$117,000 with the total assessed to the improvement district. The method of assessment is the square foot basis. The estimated assessment to individual properties is \$00.22 per square foot of ownership.

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This project will address the Efficient Infrastructure goal by providing paving improvements for commercial development.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Mayor Mayans

Mayor Mayans inquired whether any wished to be heard.

Alex Mitchell

Mr. Mitchell stated that he is an attorney and his office is located at 301 North Main. Stated that he is appearing on behalf of two property owners who oppose the improvement, who are Marliiss and Robert Critchmire. Stated that back in 1967 when the property was platted, the City asked that Brookside be dedicated as part of the Critchmire Plat and the plan was to have the City acquire some or all of that land and put in a park and would be accessed to the park. Stated that this never came about and Brookside was never developed. Stated that 40 years later we are here on this petition of Mr. Stevens to have this paved so that he can have access for his customers to the Genesis Health Club, which sits on lot 6. Stated that there are seven curb cuts along the north curb of Central from Brookside to Woodlawn and four of them are through north, south alley ways giving access to members and owners of the north side of this development. Stated that on Woodlawn there are four curb cuts, two that are dedicated to east, west thoroughfares and both sides of this development, Central and Woodlawn give access to all of the property owners on all corners of this development. Stated that this particular proposal would be to benefit Genesis. Stated that they submit that this is a private venture, which would serve no useful purpose to the other owners and submit that it should be denied.

Bob Kaplan

Mr. Kaplan, 430 North Market, stated that this is his petition and is a petition on behalf of Plaza Del Sol, Inc. and CKM and is not Mr. Steven's petition. Stated that it is to serve his shopping center and is to serve his tenants that are in that shopping center. Stated that there is no valid protest petition here. Stated that he has managed to handle this over the years and the large building north of the cul-de-sac, which was initially built for Boeing military and it is a 63,000 square foot two-level building. Stated that Boeing has since vacated it and the building is now vacant and he needs a tenant and to the east of that proposed roadway, he has Greene Vision Center and the traffic going to the north of his shopping center is driving through their parking lot and they are parking problems and having access problems. Stated that there is about 30 acres of retail and office development on that northwest corner and need the access and are willing to pay for it. Stated that he is asking that the Council approve this today and that the DAB II voted 7-0 in favor of this proposal and it is needed and is a valid petition.

Council Member Schlapp

Council Member Schlapp stated that she cannot vote on this today because of her connection to Genesis and that anytime there is any application made where Genesis is involved, she cannot vote on something for a full year after the last time she took a payment from them, which means to the end of 2006 and will have to abstain from this vote.

Motion--
--carried

Gray moved that the Petition be approved; the Resolution adopted and the necessary signatures authorized. Motion carried 6 to 0, (Schlapp abstained due to conflict of interest).

RESOLUTION NO. 06-461

A Resolution of findings of advisability and resolution authorizing constructing pavement on Brookside, from the north line of Central to and including the cul-de-sac north of Central (north of Central, West of Woodlawn) 472-84442 in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Gray moved that the Resolution be adopted. Motion carried 6 to 0. Yeas: Brewer, Fearey, Gray, Martz, Skelton, and Mayans, (Schlapp abstained due to conflict of interest).

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PETITION

PETITION TO PAVE 50TH STREET SOUTH, OSAGE AND OSAGE CIRCLE EAST OF SENECA. (DISTRICT IV)

Jim Armour

City Engineer reviewed the item.

Agenda Report No. 06-0932

The signature on the Petition represents 1 of 12 (8.33%) resident owners and 75.67% of the improvement district area. District IV Advisory Board sponsored an August 2, 2006, neighborhood hearing on the project. The Board voted 5-0 to recommend approval of the project.

The project will provide paved access to a partially developed residential area located east of Seneca, south of 47th St. South.

The estimated project cost is \$259,000 with the total assessed to the improvement district. The method of assessment is the fractional basis. The estimated assessment to individual properties is \$6,088 per lot with a front foot assessment and \$2,214 per lot with a side street assessment.

This project will address the Efficient Infrastructure goal by providing paving improvements for residential development.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--
--carried

Gray moved that the Petition be approved; the Resolution adopted and the necessary signatures authorized. Motion carried 7 to 0.

RESOLUTION NO. 06-462

A Resolution of findings of advisability and resolution authorizing constructing pavement on 50th Street South, from the east line of Seneca to the east line of Lot 27, Block 1, Sycamore Pond Addition; Osage/Osage Circle, from the north line of Sunrise to and including the cul-de-sac and sidewalks to be constructed on one side of all through, non cul-de-sac streets (south of 47th Street South, east of Seneca) 472-84416 in the City of Wichita, Kansas, pursuant to findings of advisability made by the governing body of the City of Wichita, Kansas, presented. Gray moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

PETITION

PETITION TO PAVE 37TH STREET SOUTH, FLORA AND YORK IN SKYLINE HEIGHTS AND WHEATLAND PLACE ADDITIONS, NORTH OF MACARTHUR, EAST OF HOOVER. (DISTRICT IV)

Jim Armour

City Engineer reviewed the item.

Agenda Report No. 06-0933

The signatures on the Petition represent 28 of 53 (52.83%) resident owners and 43.23% of the improvement district area. District III Advisory Board sponsored an August 2, 2006, neighborhood hearing on the project. The Board voted 4-1 to recommend approval of the project.

The project will provide paved access to a developed residential area.

The estimated project cost is \$360,000 with \$340,272 assessed to the improvement district and \$19,728 paid by the City. The method of assessment is the fractional basis. The estimated assessment to individual properties is \$8,133 per tract, except for a large tract at the northeast corner of Hoover and

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MacArthur, which has an estimated assessment of \$24,400. The City share is for the cost of intersection construction. The funding source for the City share is General Obligation Bonds.

This project addresses the Efficient Infrastructure goal by providing street paving in an existing residential neighborhood.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard.

Linda Dando

Ms. Dando stated that she is speaking on behalf of the Oatville Community Church, which is located at 3814 South Hoover and that they are opposed to this proposal and do not feel that the study has been thorough or the necessary information has been disclosed to the property owners. Stated that the numbers are inaccurate and does not feel that the count is valid because when a property owners owns one lot they are afforded one vote, if they are married, one lot, two votes and if you have one property owner with two lots, you still only get one vote and feels that you should get a vote per plot of ground on this issue, which would dramatically decrease the numbers. Stated that they do not have the approval of a commercial property or the church and the church has more than one owner. Stated that the estimates that were given were not current rates and could substantially be higher and the proposal that they said they had approved would be as a through street and at the August meeting is where they changed that and there should be additional costs to make this into a cul-de-sac. Stated that she does not feel that this was presented properly in the first place. Stated that the members of the Oatville Church do not feel that they have any direct access to the streets being paved and not one of the members reside directly in this area. Stated that if this does pass it will be an extreme hardship on their church and they are asking that they be exempt from this assessment of taxes either on the basis of hardship or as a non-profit institution and request that this be postponed to obtain more accurate costs estimates to be disclosed and a decision as to whether Flora would or would not be opened to MacArthur.

Council Member Gray

Council Member Gray explained that state law dictates what classifies as a resident signature, whether it is people own the property or one person owns the property and is not a city ordinance. Stated that is a statute that says what is a valid petition and what is not. Stated that there are constraints as far as what the numbers that were suggested as the bid price and there are legal restraints that only allow that to go so much over that and it is based off of 1% per month that it is out there and it cannot be two or three times that amount unless it is a 10 year old petition and the possibility exists that the cost of the project would actually go down if it does not open up to MacArthur Road.

Evelyn Heffley

Ms. Heffley, 3828 South Flora, stated that she was not aware that the numbers had changed. Stated that she feels that they are over 50%.

John Vosburgh

Mr. Vosburgh, 3830 South Hoover Road, stated that he never was approached on this petition and never received a phone call and the first that he actually became aware of this was when he received a letter from the City Council. Stated that several of his neighbors on Hoover say the same thing. Stated that we have a petition supposedly going around the neighborhood that did not make it all the way around, which bothers him. Stated that this is an old neighborhood and many of the residents are retired and this paving will cause many people to suffer financially and hopes that this paving does not happen at this time.

Larry (inaudible)

3800 South Hoover Road, stated that he does not use the side streets does not see the reasoning for this project to go through until after Hoover Road is lowered because you would have to tear it back out to put in storm drainage, etc. and would like to see this held off until there is a true 51% or 52% that is needed.

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- Kevin Warner Mr. Warner, 3801 South Flora, stated that the reason he moved in this area was because of the country feel. Stated that since he has lived there he has not seen a grader down the road and that the bar ditches have not been cleaned out and culver is full and it does not even drain. Stated that he would like to see these issues addressed, which may influence the vote of some of these people.
- Council Member Gray Council Member Gray stated that because this is not a clear cut decision because it is 50% and legally we would have to order it in since it does not classify a majority but it is even. Stated that he feels that we need some more finality to this and will ask the Council to defer this action for up to six months so the petition can be recirculated to give everyone another opportunity a chance to choose to sign this because at the DAB meeting, one of the things that he heard from the people was that if it was stated that the City was intending to close Flora Road to MacArthur and not open that back up, that some additional people would have actually signed the petition. Stated that another thing that was brought up was to wait until Hoover Road is extended to the intersection, but that is no where on the budget for the next four or five years at least. Stated that he feels it is fair to give the petition another chance to go through the neighborhood and if it stays like it is with 50%, then he will not support it.
- Motion-- Gray moved that the this item be deferred to give staff a chance to check the signatures to see who is valid and to give the opportunity for the petition to circulated one more time and that this be brought back to the Council within six months for review. Motion carried 7 to 0.
- carried

PLANNING AGENDA

- John Schlegel Planning Director stated that item 52 was mistakenly listed as a consent item and should be heard by the Council.
- Motion-- Mayans moved to approve Planning Consent Agenda items 49-54 be approved in accordance with the recommended action shown thereon excluding items 48 and 52. Motion carried 7 to 0.
- carried

(Item 48) DR2004-10

DR2004-10-PROPOSED AMENDMENTS TO THE WICHITA SEDGWICK-COUNTY SUBDIVISION REGULATIONS, UTILITY EASEMENTS.

- John Schlegel Planning Director reviewed the item.
- (Council Member Fearey momentarily absent)
- Agenda Report No. 06-0934
- Staff Recommendation: Approve the amendments.
MAPC Recommendation: Approve amendments. (9-0)
- On December 13, 2005, this item was deferred to allow time for discussion between Staff and City Council Members. On January 10, 2006, the City Council approved the concept and referred this item back to the Planning Commission for further review and consideration of the alternative solutions with the utilities. The Subdivision Committee reviewed the proposed amendments on July 13, 2006. On August 3, 2006, the Metropolitan Area Planning Commission voted 9-0 to recommend approval of the amendment.
- For lot splits and vacations, the Public Works and Water and Sewer Departments have been requesting that property owners dedicate additional land to create wider utility easements. The requests have mostly occurred on a piece-meal, lot-by-lot basis, resulting in the non-uniform acquisition of additional easements. The wider easement is needed to accommodate the greater number of services to be located in the easement (cable, telephone, sewer and gas) and to provide required safety for workers installing or repairing utilities.

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Planning Commissioners consistently objected to these piece-meal requests on the basis that additional easements are not effective, since an entire block's worth of easement is rarely obtained. The Planning Commission and Staff explored, with the Law Department, the potential of obtaining a wider easement by enacting a single ordinance that would retroactively widen all existing utility easements. That approach was not legally possible; therefore, another option was developed to address the issue.

The ordinance requires dedication of additional easements for existing lots served by any public utility in existing substandard easements associated with lot split or vacation requests. All property owners adjoining the easement would be contacted by City or County staff and offered \$100 for similar easement dedications and informed the easement improves accessibility for maintenance and repairs, and protection of workers. Pre-existing encroachments would be permitted to remain and property owners would be held harmless from damage to the encroachments resulting from work in the additional easement.

The Water and Sewer Department is in favor of the proposed amendment.

Planning staff has reviewed this amendment with the City and County Legal Departments prior to review by the Subdivision Committee.

These amendments to the Wichita-Sedgwick County Subdivision Regulations will affect properties both inside the city limits and in the unincorporated area of Sedgwick County. Both the City Council and the Sedgwick County Commission will need to approve the amendments in order for them to be in full effect. Legal Departments for both the City and the County have reviewed the amendments and approved as to form the respective adopting Ordinance and Resolution.

Ensure Efficient Infrastructure.

Motion--

Mayans moved that the amendments to the Wichita-Sedgwick County Subdivision Regulations as recommended by the Metropolitan Area Planning Commission be approved and the Ordinance placed on first reading. Motion carried 7 to 0.

--carried

ORDINANCE

An Ordinance amending the "Wichita-Sedgwick County Subdivision Regulation, January 28, 1999 Edition," as adopted by reference in City of Wichita Code Sec. 28.05.010. introduced and under the rules laid over. (DR2004-10)

SUB2006-53

SUB2006-53-PLAT OF QUIKTRIP NINTH ADDITION, LOCATED EAST OF WEST STREET AND ON THE SOUTH SIDE OF MAPLE STREET. (DISTRICT IV)

Agenda Report No. 06-0935

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (11-0)

This site, consisting of one lot on .98 acres, is a replat of a portion of the Quincy Addition. The south portion of the site has been approved for a zone change (ZON 2006-19) from "SF-5" Single-Family Residential District to "LC" Limited Commercial District subject to platting. A Conditional Use (CON 2006-17) for a car wash was also approved for the site. The plat includes the vacation of a portion of an alley.

Municipal services are available to serve the site. In order to guarantee the closure of any driveway openings located in areas of complete access control along Maple Street, a Driveway Closure Certificate has been submitted. Also, an Alley Return Closure Certificate has been submitted to guarantee the closure of the alley return and continuation of curbing along Illinois Street.

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This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days. Publication of the Ordinance should be withheld until such time as the plat is recorded with the Register of Deeds.

The Drive Approach and Alley Return Closure Certificates will be recorded with the Register of Deeds.

Ensure Efficient Infrastructure.

Motion--

Mayans moved that the documents and plat be approved; the necessary signatures authorized and the Ordinance placed on first reading, with publication being withheld until such time as the plat is recorded with the Register of Deeds. Motion carried 7 to 0.

--carried

ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended. (ZON2006-00019)

SUB2005-136

SUB2005-136-PLAT OF NICHOLSON COMMERCIAL ADDITION, LOCATED ON THE NORTHWEST CORNER OF 53RD STREET NORTH AND RIDGE ROAD. (COUNTY)

Agenda Report No. 06-0936

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (12-0)

This site, consisting of seven lots on 8.15 acres, is located within three miles of Wichita's city limits. A Sedgwick County zone change request has been approved (ZON 2005-16) from "RR" Rural Residential District to "LC" Limited Commercial District and to "OW" Office Warehouse District.

Petitions, 100 percent, and a Certificate of Petitions have been submitted for future extension of sanitary sewer and City water services. A Restrictive Covenant was submitted prohibiting non-domestic wastes on the site until public sewer is available. A Joint Access Easement was submitted to provide joint access openings.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

Ensure Efficient Infrastructure.

The Certificate of Petitions, Restrictive Covenant and Joint Access Easement will be recorded with the Register of Deeds.

Motion--

Mayans moved that the documents and plat be approved and the necessary signatures authorized.

--carried

Motion carried 7 to 0.

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VAC2006-00015

VAC2006-00015-REQUEST TO VACATE A PORTION OF A PLATTED UTILITY EASEMENT LOCATED AT THE NORTHEAST CORNER OF KELLOGG DRIVE AND ARMOUR DRIVE. (DISTRICT II)

Agenda Report No. 06-0937

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

The applicant proposes to vacate portions of the 18-foot wide platted utility easement located along the common lot line of Lots 2, Rockwood South 3rd Addition and Lot 1, Kellogg Mall Addition. The easement does not have any utilities, manholes, sewer or water lines. The site is being redeveloped as a result of improvements to Kellogg Avenue. The Rockwood South Third Addition was recorded with the Register of Deeds on October 19, 1966. The Kellogg Mall Addition was recorded with the Register of Deeds on June 18, 1973.

The MAPC voted (10-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

A certified copy of the Vacation Order and a utility easement dedicated by separate instrument will be recorded with the Register of Deeds.

Ensure efficient infrastructure.

Motion--
--carried

Mayans moved that the Vacation Order be approved and the necessary signatures authorized. Motion carried 7 to 0.

(Item 52)

ZON2006-00017

ZON2006-00017-ZONE CHANGE FROM "SF-5" SINGLE-FAMILY RESIDENTIAL TO "MF-18" MULTI-FAMILY RESIDENTIAL. GENERALLY LOCATED NORTH OF LEWIS AND EAST OF GREENWICH ROAD. (DISTRICT II)

John Schlegel

Planning Director reviewed the item.

Agenda Report No. 06-0938

MAPC Recommendations: Approve, (12-0).

MAPD Staff Recommendations: Approve.

DAB Recommendations: DAB II recommended approval (7-0), subject to a Protective Overlay.

The application area consists of two undeveloped, platted lots located north of Lewis and east of Greenwich Rd. The 1.76-acre site is zoned "SF-5" Single-family Residential. The applicant requests "MF-18" Multi-family Residential zoning, the lowest level of multi-family zoning, to allow for multiple duplexes per lot. Based on the lot size requirements for MF-18 zoning, the site could in theory be developed with up to 16 single-family residences, up to 20 duplex dwelling units and up to 28 multi-family dwelling units.

Property north of the site is zoned SF-5 and is developed with single-family residences; further north is property zoned "MH" Manufactured Housing and is developed with a mobile-home park. South of the site is property zoned "GC" General Commercial and "LC" Limited Commercial and contains vacant commercial land and a single family-residence. East of the site is property zoned "TF-3" Two-family Residential and is developed with duplexes and single-family residences; further east is an MH zoned mobile-home development. West of the site is property zoned SF-5 and is developed with single-family residences.

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MAPC heard this request on June 1, 2006; one neighbor spoke in support of the request, and one spoke in opposition to the request because of drainage concerns. The action of the MAPC was to approve by a vote of 12-0. Several surrounding residential property owners filed protest petitions, amounting to 40 percent of the protest area, requiring a governing body $\frac{3}{4}$ majority override to approve the zone change request.

DAB II heard this request on July 10, 2006; several neighbors spoke against the request. The DAB instructed Planning Staff to draft a Protective Overlay to mitigate neighbors concerns, specifically to limit the number of dwelling units on the site and ensure code standards on the site. DAB II heard the request again on August 7, 2006; several neighbors again spoke against the request. DAB II unanimously recommended approval of the request subject to the following Protective Overlay:

1. The site shall be limited to development of single-family or duplex residential units only.
2. The site shall be limited to a total of 16 dwelling units.
3. The site shall meet all code-required setbacks, screening, landscaping and parking requirements.
4. The City of Wichita's Fire Marshall shall approve the site plan for a private access drive.

As the DAB recommendation differs from the MAPC recommendation, the governing body is required to have a $\frac{2}{3}$ majority to override the MAPC recommendation. As stated above, the protest percentage in this case requires a governing body $\frac{3}{4}$ majority override to approve the zone change request.

Promote Economic Vitality and Affordable Living.

The resolution has been reviewed and approved as to form by the Law Department.

Motion--
--carried

Schlapp moved to approve the zone change subject to the recommended protective overlay and place the ordinance on first reading. Motion carried 7 to 0.

ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended. (ZON2006-00017)

DED2006-23

DED2006-23-DEDICATION OF A UTILITY EASEMENT, LOCATED EAST OF WEST STREET AND NORTH OF CENTRAL. (DISTRICT VI)

Agenda Report No. 06-0939

Staff Recommendation: Accept the Dedication.

This Dedication is associated with a Lot Split No. SUB 2006-70 (Lot 35, West Ridge Acres Addition). The Dedication is for a four-foot utility easement for construction and maintenance of public utilities.

Ensure Efficient Infrastructure.

The Dedication will be recorded with the Register of Deeds.

Motion--carried

Mayans moved that the Dedication be accepted. Motion carried 7 to 0.

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HOME RULE ORD. HOME RULE BONDING ORDINANCE FOR PREPARING THE HILLTOP NEIGHBORHOOD MASTER PLAN. (DISTRICT III)

Agenda Report No. 06-0940

The Hilltop Neighborhood Revitalization Plan was adopted in August 2000. Although this Plan proposed strategies to address some longstanding neighborhood issues, there still remain many deep-rooted neighborhood problems that were not addressed within the scope of the original neighborhood plan.

The City has identified a need to create a long-term master plan to provide solutions to longstanding platting, housing and public infrastructure deficiencies existing in that portion of the Hilltop neighborhood located east of S. Bluffview Drive, west of the Hilltop Manor Cooperative, north of Harry Street and south of Lincoln Street. This master plan initiative is necessary to update and expand the original Hilltop Neighborhood Revitalization Plan adopted in August 2000.

Consultants will be hired to help create a Hilltop Neighborhood Master Plan, working closely with city staff, neighborhood residents, landowners, and community stakeholders at-large.

The Department of Law requires the approval of a home rule-bonding ordinance to be eligible to issue temporary notes for the cost of services in creating the Hilltop Neighborhood Master Plan. This is necessary even though the temporary notes may be paid with cash. The Law Department has drafted the required home rule-bonding ordinance.

Funding for this project (not to exceed \$125,000) is identified in Year 2006 of the 2005-2014 Capital Improvement Program.

This project will address the Core Area and Neighborhoods Goal by providing a master plan approach to solving serious platting, housing and public infrastructure deficiencies existing in portions of the Hilltop neighborhood.

A home rule-bonding ordinance is required since there is not yet a specific City project associated with Hilltop Neighborhood Master Plan. The ordinance has been approved as to form by the Law Department.

Motion--
--carried

Mayans moved that the home rule-bonding ordinance for the Hilltop Neighborhood Master Plan be approved and the ordinance placed on first reading. Motion carried 7 to 0.

ORDINANCE

An Ordinance of the City of Wichita, Kansas authorizing the issuance of its general obligation bonds to pay costs of preparation of a Hilltop Neighborhood Master Plan; and authorizing and providing for the issuance of temporary improvement notes of the City from time to time as funds are needed for such purpose, introduced and under the rules laid over.

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AIRPORT AGENDA

Motion-- Mayans moved that the Agenda Consent items 56 to 60 be approved in accordance with the
--carried recommended action shown thereon. Motion carried 7 to 0.

AIRTRAN AIRLINES CONTRACT FOR OUTSIDE LEGAL SERVICES, DELTA AIRLINES COMPLAINT WITH FAA REGARDING AIRTRAN AIRLINES.

Agenda Report No. 06-0942

In December 2004 the City Manager retained the law firm of Palmer & Dodge to represent the interests of the Wichita Airport Authority in connection with a complaint filed with the Federal Aviation Administration by Delta Airlines challenging the relationship between the City of Wichita and AirTran Airlines entered into in May 2004. This agreement was for an initial amount not to exceed \$24,000. The contract was amended by the Airport Authority on February 7, 2006, to increase authorized payments to \$125,000. The firm has provided representation since that time and the matter has now been concluded favorably to the Wichita Airport Authority and the City of Wichita. This legal work has generated fees that exceed the limits of the existing contract as amended.

In addition, the attorneys with the firm of Edwards, Angell, Palmer & Dodge who were doing the legal work for the Airport Authority have joined another firm, Kaplan, Kirsch & Rockwell, L.L.C. and wrap-up work was performed while they were members of Edwards' firm. Consequently, it is necessary to approve payment of legal fees in an amount not to exceed \$5,000.00 to the Edwards' firm.

The final billings for Edwards, Angell, Palmer & Dodge for its representation of the Airport Authority in the AirTran matter requires an amendment to the existing contract in the amount of \$5,500, which increases the maximum pay out under that contract to \$130,500. The attorneys representing the Airport Authority have billed \$3,527.00 in legal fees during June and July of 2006 in wrapping up this matter while they were members of the Kaplan firm. There are billings for early August; however, total billings will not exceed \$5,000.00.

The fees and expenses for the defense of this lawsuit will be paid from Wichita Airport Authority funds.

This matter impacts the Economic Vitality and Affordable Living Goal by providing the necessary legal services to provide affordable airfares.

The Law Department has approved the amendment to the contract for legal services as to form and has approved the amount of the fees billed by Kaplan, Kirsch & Rockwell, L.L.C.

Motion-- Mayans moved that the Mayor be authorized to execute the amendment to the contract on behalf of the
--carried Wichita Airport Authority increasing the amount of fees and expenses that may be expended under the agreement with Edwards, Angell, Palmer & Dodge by \$5,500, increasing the maximum amount to \$130,500 and approving payment of not to exceed \$5,000.00 in legal fees to Kaplan, Kirsch & Rockwell, L.L.C. Motion carried 7 to 0.

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DEPT OF AGRICULT. AGREEMENT-U.S. DEPARTMENT OF AGRICULTURE.

Agenda Report No. 06-0943

In 2000, the WAA entered into an agreement with the U. S. Department of Agriculture/Wildlife Services to provide funding for one specialist to assist the WAA with its wildlife management program at Wichita Mid-Continent and Jabara Airports. This agreement has been renewed annually for the past years.

The U. S. Department of Agriculture/Wildlife Services has prepared a cooperative services agreement to collect and monitor biological assessment data and provide continuous wildlife management oversight. Wildlife management at airports is mandated by the FAA.

The cost for services provided is \$45,670 for the period October 1, 2006 through September 30, 2007. This amount reflects an increase of \$1,125 above the 2005/2006-contract amount for these services. One specialist, based on the airport, will be assigned to the project for approximately 32 hours per week. Work hours will vary to most appropriately interact with wildlife management issues. Funds are included in the operating budget.

The Airport's contribution to the economic vitality of Wichita is promoted by complying with Federal regulations.

The Agreement has been approved as to form by the Department of Law.

Motion--
--carried

Mayans moved that the Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

FUEL CONTRACT FUEL CONTRACT CONSULTING SERVICES.

Agenda Report No. 06-0944

The Wichita Airport Authority has fueling operations taking place on its airports involving several parties such as fixed base operators, managers of Authority owned fuel plants, users of Authority owned fuel plants, product suppliers and tenant operators of fuel farms. Language is included in several leases, which speaks to issues such as access, liability, control, maintenance and reporting. A comprehensive review of the contractual relationships that should exist is in order.

A Request for Proposal was published to which three responses was received. After reviewing the responses and conducting telephone interviews, the Staff Screening and Selection Committee selected Airport Business Solutions to provide the services. The company brings extensive experience in airport consulting and has performed similar engagements at other airports.

The agreement is for a not-to-exceed cost, including out-of-pocket expenses, of \$39,300. There is operating budget available for this expenditure.

The Airport's contribution to the economic vitality of Wichita is promoted through maintaining agreements, which clearly establish the responsibilities of the parties.

The Law Department has approved the Contract as to form.

Motion--
--carried

Mayans moved that the contract be approved and the necessary signatures authorized. Motion carried 7 to 0.

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TAXIWAY

TAXIWAY L, H AND H-1, CHANGE ORDER NO. 2, MID-CONTINENT AIRPORT.

Agenda Report No. 06-0945

On August 9, 2005 the Wichita Airport Authority approved a contract with Cornejo & Sons for construction of Taxiways L, H and H-1.

A change order has been prepared to modify the contracted work and adjust quantities.

The change order amount of \$27,671.72 will be funded with FAA AIP funding, PFC funding and General Obligation bonds paid for with Airport revenue. A budget increase of \$30,000 is requested and will result in a total project budget of \$6,980,000.00. With this change order the total change orders are approximately 0.5% of the initial construction contract amount.

The Airport's contribution to the economic vitality of Wichita is promoted through infrastructure improvements to allow tenant development.

The change order has been approved by the Law Department and the FAA. The Law Department has approved the Authorizing Resolution as to legal form.

Motion--
--carried

Mayans moved that the change order be approved; the resolution adopted; the budget adjustment approved and the necessary signatures authorized. Motion carried 7 to 0.

RESOLUTION NO. A06-014

A Resolution declaring that a public necessity exists for, and that the public safety, service and welfare will be advanced by the authorization of certain capital improvements to the Wichita Mid-Continent Airport Facility; and setting for the nature of said improvements; the estimated costs thereof; and the manner of payment of same, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Martz, Schlapp, Skelton, and Mayans.

SOUTHWEST AREA

SOUTHWEST AREA SITE DEVELOPMENT, SUPPLEMENTAL AGREEMENT NO. 1, COLONEL JAMES JABARA AIRPORT.

Agenda Report No. 06-0946

On September 13, 2005 the Wichita Airport Authority approved an agreement with Professional Engineering Consultants for \$43,200 for design and bid phase services.

A supplemental agreement has been prepared to authorize construction-related services as well as for supplemental design services.

The cost of the construction-related services and the additional design services is a not-to-exceed amount of \$56,020, will be funded with General Obligation Bonds paid for with Airport Revenue, and is within the project budget.

The Airport's contribution to the economic vitality of Wichita is promoted through infrastructure improvements to allow tenant development.

The agreement has been approved by the Law Department.

Motion--
--carried

Mayans moved that the supplemental agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

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CITY COUNCIL

TRAVEL EXPEND. APPROVAL OF TRAVEL EXPENSES FOR COUNCIL MEMBER GRAY TO PARTICIPATE IN VISIONEERING CITY-TO-CITY VISIT IN RICHMOND, VA, SEPTEMBER 13-15, 2006.

Motion--carried Mayans moved that the expenditures be approved. Motion carried 7 to 0.

TRAVEL EXPEND. APPROVAL OF TRAVEL EXPENSES FOR MAYOR MAYANS TO ATTEND THE MAYOR'S HEMISPHERIC FORUM IN MIAMI, LORIDA, SEPTEMBER 24-26, 2006.

Motion--carried Mayans moved that the expenditures be approved. Motion carried 7 to 0.

BOARD APPTS. BOARD APPOINTMENTS.

Council Member Schlapp Council Member Schlapp requested that the following people be appointed to her DAB: Matt Hesse, Sarah Devries, Marty Weeks, Brian Carduff, Tim Goodpasture, Phil Ryan, Joe Johnson, Daryl Crotts; Larry Frutiger, and David Mollhagen.

Motion--carried Mayans moved that the appointments be approved. Motion carried 7 to 0.

ADJOURNMENT

Motion--carried Mayor Mayans moved at 2:54 pm to adjourn the meeting. Motion carried 7 to 0.

Respectfully submitted,

Karen Sublett, CMC
City Clerk

Workshop followed in the Council Chambers